

Vol. 41—No. 44
3-4-76
PAGES
9297-9531

federal register

THURSDAY, MARCH 4, 1976



highlights

PART I:

SAVINGS AND LOANS

FHLBB extends approval of NOW accounts; effective 3-4-76 9297

TREATMENT WORKS

EPA issues required provisions for subagreements under grants for construction; effective 3-1-76 9340

AIRLINES

CAB implements consumer credit protection; effective 2-27-76 9303

HEALTH MAINTENANCE ORGANIZATION

HEW/HSA lists qualified organization 9413

SELF-REGULATORY ORGANIZATIONS

SEC announces proposal by PBW Stock Exchange, Inc. for name change; comments by 4-5-76 9433

OIL

FEA proposes modification of small refiner purchase exemption under entitlements program; comments by 3-24-76; hearing 3-23-76 9391

OUTER CONTINENTAL SHELF

Interior/GS announces proposed allocation method of royalty oil; comments by 3-19-76 9405

DOMESTIC CRUDE OIL

FEA proposes adjustment to prices and implementation of the Energy Policy and Conservation Act; comments by 3-17-76; hearing 3-17-76 9381

SMALL BUSINESS

SBA amends size standards 9297

VETERANS BENEFITS

VA proposes excluding certain volunteer payments from computation of annual income; comments by 4-2-76 9396

VEHICLE THEFT PROTECTION

DOT/NHTSA proposes upgrading standards; comments by 6-2-76 9374

MOTOR VEHICLES

DOT/NHTSA issues bumper standard damageability requirements; effective 9-1-78 9346

DOT/NHTSA proposes to allow voluntary compliance with certain bumper standards prior to 9-1-78 effective date... 9374

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
	CSC			CSC
	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202-523-5286. For information on obtaining extra copies, please call 202-523-5240.

To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202-523-5022.

federal register

Phone 523-5240

Area Code 202



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

HIGHLIGHTS—Continued

MEDICARE

HEW/SSA issues rules relating to enrollment, grievance, and appeals procedures for health maintenance organization of systems of records; comments by 4-3-76..... 9307

PRIVACY ACT

Export-Import Bank of the United States amends its regulations; effective 4-5-76..... 9420

FREEDOM OF INFORMATION

NASA amends regulations; effective 3-4-76..... 9306

MEETINGS—

Commerce/DIBA: Computer Systems Technical Advisory Committee, 4-13-76..... 9410

Numerically Controlled Machine Tool Advisory Committee, 3-27-76..... 9410

Commodity Futures Trading Commission: Advisory Committee on Definition and Regulation of Market Instruments, 3-18 and 3-19-76..... 9418

CRC: Michigan Advisory Committee, 3-26 and 3-27-76..... 9418

Defense: Defense Intelligence Agency Scientific Advisory Committee, 3-26-76..... 9398

DOT/FAA: Radio Technical Commission for Aeronautics, 4-1 and 4-2-76..... 9414

HEW: President's Commission on Olympic Sports, 3-20 and 3-21-76..... 9413

HRA: Cooperative Health Statistics Advisory Committee, 3-25 and 3-26-76..... 9413

Interior/BLM: Management and Disposition of Public Lands, 3-30-76..... 9404

Phoenix District Multiple Use Advisory Board, 4-9-76..... 9404

NPS: Southwest Regional Advisory Committee, 3-30 thru 4-1-76..... 9407

National Advisory Council on the Education of Disadvantaged Children: Meeting, 3-19 and 3-20-76..... 9421

National Foundation on the Arts and the Humanities: Advisory Committee Research Grants Panel (5 documents), 3-19, 3-22, 3-26, and 4-2-76..... 9422, 9423

NSF: Food and Nutrition Subgroup, 3-23-76..... 9423

SBA: Augusta District Advisory Council, 3-29-76..... 9434

Columbia District Advisory Council, 5-3-76..... 9434

Kansas City District Advisory Council, 3-24-76..... 9434

Lubbock District Advisory Council, 4-9-76..... 9434

San Diego District Advisory Council, 3-25-76..... 9434

USDA/AMS: Shippers Advisory Committee, 3-16-76..... 9407

PART II:

FIREWORKS

CPSC issues proposals for product safety; comments by 4-5-76..... 9511

PART III:

COMMODITY FUTURES

CFTC proposes contract market rules; comments by 4-30-76..... 9527

contents

AGRICULTURAL MARKETING SERVICE

Rules

Oranges (navel) grown in Ariz. and Calif..... 9356

Notices

Meeting: Shippers Advisory Committee... 9407

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Commodity Credit Commission; Forest Service; Soil Conservation Service.

Rules

Authority delegations by Secretary and General Officers:

Administrator of Soil Conservation Service; designated resource areas for operation.... 9355

ANTITRUST DIVISION, JUSTICE DEPARTMENT

Notices

Competitive impact statements and proposed consent judgments, U.S. versus listed companies: Guardian Industries Corp..... 9398

ARMS CONTROL AND DISARMAMENT AGENCY

Rules

Statement of organization..... 9318

CIVIL AERONAUTICS BOARD

Rules

Air carriers; Consumer credit protection..... 9303

Air taxis; operations in Alaskan bush routes..... 9304

Notices

Hearings, etc.:

Airwest Airlines Ltd..... 9418

Alaskan Air Carriers..... 9414

American Airlines, Inc., et al.... 9415

International Air Transport Association..... 9416

Local service class VII subsidy rate..... 9416

Shulman Air Freight, Inc..... 9417

Wien Air Alaska, Inc..... 9417

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees: Michigan..... 9418

COAST GUARD

Rules

Claims against U.S.; processing procedures..... 9328

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Maritime Administration.

COMMODITY CREDIT CORPORATION

Notices

Monthly sales list: FY ending June 30, 1976..... 9408

COMMODITY FUTURES TRADING COMMISSION

Proposed Rules

Contract market rules..... 9527

Notices

Hearings: Regulation of Commodity Option Transactions Registration; Fraud..... 9418

Meetings:

Advisory Committee on Definition and Regulation of Market Instruments..... 9418

COMMUNITY SERVICES ADMINISTRATION

Proposed Rules

Funding of community action programs; correction..... 9376

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Swimming pool slides; safety standards; correction..... 9307

Proposed Rules

Fireworks devices; rulings of exceptions, findings of fact, conclusions of law, and tentative order..... 9511

CONTENTS

DEFENSE DEPARTMENT

See also Engineers Corps.

Rules

Air traffic and navigation aids; security control plan..... 9322

Notices

Meeting:
Defense Intelligence Agency Scientific Advisory Committee..... 9398

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
Computer Systems Technical Advisory Committee..... 9410
Numerically Controlled Machine Tool Technical Advisory Committee..... 9410

DRUG ENFORCEMENT ADMINISTRATION

Notices

Applications, etc.; controlled substances:
Biomedical Research Branch..... 9402
Collaborative Research, Inc..... 9403
Knauf & Tesch Co..... 9403
Halpern, B. David..... 9403
Registrations, actions affecting:
Wagner, Sheldon, D.P.M..... 9403

ENGINEERS CORPS

Rules

Fairways and anchorage areas; shipping safety..... 9338

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation Plans:
Gasoline vapor control..... 9339
Construction of treatment works; subagreements under grants..... 9340
Pesticide chemicals in or on raw commodities; tolerances and exemptions, etc.:
Oryzalin..... 9344

Proposed Rules

Air quality implementation plans; various States:
Florida..... 9376
West Virginia..... 9377

Notices

Pesticide chemicals, etc.; petitions:
American Cyanamid Co..... 9420
Pesticide registration:
Applications..... 9418

EXPORT-IMPORT BANK OF THE UNITED STATES

Notices

Privacy Act of 1974:
Systems of records..... 9420

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Beech..... 9298
Bell (2 documents)..... 9299, 9301
Boeing..... 9298
McDonnell Douglas..... 9299
Piper (2 documents)..... 9300
Swearingen..... 9301
United Aircraft of Canada Ltd..... 9301
Control zones (2 documents)..... 9301
Jet routes..... 9302
Restricted areas..... 9302
Standard instrument approach procedures..... 9306
Transition areas (2 documents)..... 9302

Proposed Rules

Airworthiness directives:
Beech..... 9367
Canadair..... 9365
Douglas..... 9366
Control zones..... 9370
Jet routes..... 9372
Pilots; second-in-command qualifications..... 9366
Special air traffic rule: Nellis AFB..... 9372
Transition areas (7 documents)..... 9367-9371
VOR Federal airways (6 documents)..... 9368-9371

Notices

Meeting:
Radio Technical Commission for Aeronautics..... 9414
Operations Review Program; conference summary, availability of..... 9413

FEDERAL COMMUNICATIONS COMMISSION

Rules

Practice and procedure:
Radio frequency devices; correction..... 9345

FEDERAL ENERGY ADMINISTRATION

Proposed Rules

Adjustments to domestic crude oil..... 9381
Modification of small refiner purchase exemption under entitlements program..... 9391

FEDERAL HIGHWAY ADMINISTRATION

Rules

Miscellaneous amendments..... 9321

FEDERAL HOME LOAN BANK BOARD

Rules

NOW accounts; operations, limitation on rate of return..... 9297

FEDERAL INSURANCE ADMINISTRATION

Rules

National Flood Insurance Program:
Special hazard areas..... 9356

Proposed Rules

National Flood Insurance Program; flood elevation determinations, etc.:
Ohio..... 9364

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Arkansas-Missouri Power Co..... 9420
Cities Service Gas Co. (2 documents)..... 9420, 9421
Consolidated Gas Supply Corp..... 9421

FISCAL SERVICE

Notices

Military banking program; correction..... 9398

FISH AND WILDLIFE SERVICE

Rules

Fishing:

De Soto National Wildlife Refuge, Iowa and Nebraska..... 9355
Squaw Creek National Wildlife Refuge, Missouri..... 9355

FOOD AND DRUG ADMINISTRATION

Rules

Freedom of information; clarification..... 9317

Notices

Human drugs:

Cough preparation containing dimethoxanate hydrochloride..... 9412
Protokylol hydrochloride injection and epinephrine suspension in oil for injection..... 9412

FOREST SERVICE

Proposed Rules

Timber; transfer of unused effective purchaser road construction credit; extension of comment period..... 9363

Notices

Environmental statements, availability, etc.:
Curtis Creek Unit Plan..... 9408
John Day Planning Unit..... 9408
West Chichagof-Yakobi Island Land Use Study..... 9408

GEOLOGICAL SURVEY

Notices

Geothermal resource areas, operations, etc.:
Nevada..... 9405
Outer Continental Shelf; oil and gas development:
Gulf of Mexico and Pacific areas; disposal of royalty oil..... 9405
Potash leasing area:
New Mexico..... 9405

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; Health Resources Administration; Health Services Administration; Social Security Administration.

Notices

Meeting:
President's Commission on Olympic Sports..... 9413

HEALTH RESOURCES ADMINISTRATION

Notices

Meeting:
Cooperative Health Statistics Advisory Committee..... 9413

CONTENTS

HEALTH SERVICES ADMINISTRATION

Notices

Qualified health maintenance organizations; list of..... 9413

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

Notices

Authority delegation:
Interior Defense Delegation 1; cancellation..... 9406
Environmental statements; availability, etc.:
Columbia Basin Project, Washington..... 9406

INTERNAL REVENUE SERVICE

Rules

Income taxes:
Filing of form 5227..... 9321

Notices

Cashiers for change-making purposes; designation..... 9398
Tax Forms Coordinating Committee; request for suggestions..... 9398

INTERSTATE COMMERCE COMMISSION

Rules

Tariffs containing joint rates and through routes; transportation of property between points in the U.S. and points in foreign countries; correction..... 9351

Proposed Rules

Commercial zones and terminal areas..... 9397

Notices

Car service exemptions, mandatory (4 documents)..... 9462, 9463
Fourth section applications for relief..... 9464
Hearing assignments..... 9463
Motor carriers:
Applications and certain other proceedings..... 9436
Temporary authority applications (2 documents)..... 9456, 9460
Transfer proceedings (2 documents)..... 9455, 9464

JUSTICE DEPARTMENT

See Antitrust Division; Drug Enforcement Administration.

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Colorado..... 9345

Proposed Rules

Coal leases: diligent development and continuous operations; extension of comment period..... 9363

Notices

Applications, etc.:
Wyoming..... 9404
Meetings:
Klamath Project..... 9404
Phoenix District Multiple Use Advisory Board..... 9404

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; lists of requests (3 documents)..... 9428, 9429

MARITIME ADMINISTRATION

Notices

Applications, etc.:
American President Lines, Ltd..... 9411
Sea Tankers, Inc..... 9411
Trustees, approved, roster of; removal, request for; Barnett Bank of Miami Beach..... 9411

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notices

Meeting..... 9421

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules

Freedom of information; availability of agency records..... 9306

NATIONAL COMMUNICATIONS SYSTEM

Notices

Telecommunications; Federal standard 1035..... 9421

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notices

Meetings:
Research Grants Panel; Advisory Committee (5 documents)..... 9422, 9423

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Bumpers; manageability requirements..... 9346
Fuel system integrity..... 9350

Proposed Rules

Motor vehicle safety standards:
Bumpers..... 9374
Theft protection..... 9374

NATIONAL PARK SERVICE

Notices

Meeting:
Southwest Regional Advisory Committee..... 9407
Snowmobile routes and areas:
Bryce Canyon National Park, Utah..... 9407

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Subgroup on Food and Nutrient Panel..... 9423
Renewal of Utility Advisory Commission..... 9423

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc..... 9423

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Arkansas Power and Light Co (2 documents)..... 9424
Illinois Power Co..... 9425
Long Island Lighting Co..... 9425
Northeast Nuclear Energy Co..... 9426
Pacific Gas and Electric Co..... 9425
Utah International, Inc..... 9426
Vermont Yankee Nuclear Power Corp..... 9427
Wisconsin Electric Power Co..... 9427
Nuclear Fuel Services, Inc..... 9428
Potomac Electric Power Co..... 9428
Regulatory guides; issuance and availability..... 9426
Meetings:
Reactor Safeguards, Advisory Committee..... 9427

POSTAL SERVICE

Proposed Rules

Sexually oriented advertisements; increased cost of list to persons..... 9395

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Marathon Securities Corp..... 9430
Midwest Stock Exchange, Inc..... 9431
New England Electric System..... 9432
Southern Co..... 9433
Self regulatory organizations:
PBW Stock Exchange, Inc..... 9433

SINAI SUPPORT MISSION

Notices

Authority delegations:
Office of Management Operations, Agency for International Development..... 9435
Controller, Office of Financial Management, Agency for International Development..... 9435

SMALL BUSINESS ADMINISTRATION

Rules

Small business size standards:
Number of employees; definition..... 9297

CONTENTS

Notices

Disaster areas:	
New York.....	9434
Meetings, Advisory Council:	
Augusta District.....	9434
Columbia District.....	9434
Kansas City District.....	9434
Lubbock District.....	9434
San Diego District.....	9434

SOCIAL SECURITY ADMINISTRATION

Rules	
Health insurance for aged and disabled:	
Health maintenance organizations	9307

SOIL CONSERVATION SERVICE

Proposed Rules	
Compliance with NEPA: preparation of environmental impact statements; guidelines.....	9363

Notices

Environmental statements on watershed projects; availability, etc.:	
Baily-Cox-Newtson, Indiana....	9408
Bear Creek, Missouri.....	9409
Pine River, Wisconsin.....	9409
Upper Blue River, Indiana.....	9409
Upper Petit Jean, Arkansas.....	9410

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS OFFICE

Rules	
Commerce and foreign trade; miscellaneous amendments.....	9307
Notices	
Trade policy review group; termination of section.....	9430

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.	
---	--

TREASURY DEPARTMENT

See also Fiscal Service; Internal Revenue Service.

Notices

Authority delegation:	
Federal Law Enforcement Training Center Director.....	9398

UNITED STATES RAILWAY ASSOCIATION

Notices

Abandonment and discontinuance of service:	
Lehigh Valley Co.....	9435

VETERANS ADMINISTRATION

Proposed Rules

Annual income; domestic volunteer service program.....	9396
--	------

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR		17 CFR		38 CFR	
2.....	9355	PROPOSED RULES:		PROPOSED RULES:	
907.....	9356	1.....	9528	3.....	9396
PROPOSED RULES:					
650.....	9363	20 CFR		39 CFR	
10 CFR		405.....	9307	PROPOSED RULES:	
PROPOSED RULES:		21 CFR		111.....	9395
211.....	9391	4.....	9317	40 CFR	
212 (2 documents).....	9381, 9391	314.....	9317	35.....	9340
12 CFR		22 CFR		52.....	9339
526.....	9297	601.....	9318	180.....	9344
545.....	9297	23 CFR		PROPOSED RULES:	
563.....	9297	652.....	9321	52 (2 documents).....	9376, 9377
13 CFR		710.....	9321	43 CFR	
121.....	9297	712.....	9321	PUBLIC LAND ORDERS:	
14 CFR		713.....	9321	5573.....	9345
39 (9 documents).....	9298-9301	720.....	9321	PROPOSED RULES:	
71 (4 documents).....	9301, 9302	740.....	9321	3500.....	9363
73.....	9302	750.....	9321	3520.....	9363
75.....	9302	751.....	9321	45 CFR	
97.....	9303	770.....	9321	PROPOSED RULES:	
293.....	9305	771.....	9321	1067.....	9376
374.....	9303	24 CFR		47 CFR	
1206.....	9307	1915.....	9356	1.....	9345
PROPOSED RULES:		PROPOSED RULES:		15.....	9345
39 (3 documents).....	9365, 9366, 9367	1917.....	9364	49 CFR	
61.....	9366	26 CFR		571.....	9350
71 (14 documents).....	9367-9371	1.....	9321	581.....	9346
75.....	9372	53.....	9321	Ch. X.....	9351
93.....	9372	32 CFR		PROPOSED RULES:	
15 CFR		245.....	9322	571.....	9374
2002.....	9307	33 CFR		581.....	9374
2006.....	9307	25.....	9328	1048.....	9397
16 CFR		209.....	9338	1049.....	9397
1207.....	9307	36 CFR		50 CFR	
PROPOSED RULES:		PROPOSED RULES:		28.....	9355
1500.....	9512	221.....	9363	33.....	9355
1507.....	9512				

CUMULATIVE LIST OF PARTS AFFECTED DURING MARCH

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during March.

1 CFR		14 CFR—Continued		21 CFR—Continued	
Ch. 1	8765	PROPOSED RULES:		PROPOSED RULES:	
PROPOSED RULES:		39	9365, 9366, 9367	207	9183
304	9188	61	9366	1303	8794
3 CFR		71	9367-9371		
PROCLAMATIONS:		75	9372	22 CFR	
4420	9083	91	8797	601	9318
EXECUTIVE ORDERS:		93	9372		
10945 (See Ed 11907)	9085	103	9188	23 CFR	
11533 (Amended by Ed 11907)	9085	207	9189	633	8769, 8950
11846 (See Ed 11907)	9085	208	9189	652	9321
11907	9085	212	9189	710	9321
7 CFR		214	9189	712	9321
2		217	9189	713	9321
331	8943	241	9189	720	9321
354	8765, 8944	249	9189	740	9321
905	8765	371	9189	750	9321
907	9356	389	9189	751	9321
989	8944			770	9321
PROPOSED RULES:				771	9321
650	9363	15 CFR			
1140	9182	30	9134	24 CFR	
9 CFR		50	8767	1914	9150-9152
56	8944	2002	9307	1915	9356
331	8945	2006	9307	1916	8950, 8951
381	8945	16 CFR		1917	9153
10 CFR		PROPOSED RULES:		1920	8951-8954, 9153
205	9088	437	8980	PROPOSED RULES:	
210	9088	1201	8798	570	8797
212	9088	1207	9307	888	8882
PROPOSED RULES:		PROPOSED RULES:		1917	8978, 9183-9188, 9364
211	9196, 9391	1500	9512	26 CFR	
212	9196, 9199, 9391	1507	9512	Ch. 1	8769
12 CFR		17 CFR		1	9321
337	8946	200	8949	53	9321
526	9297	250	8767	PROPOSED RULES:	
545	9297	PROPOSED RULES:		1	8800
546	9131	1	9528	20	8800
556	9133	32	9189	29 CFR	
563	9132, 9297	270	8799	60	8954
571	9133	19 CFR		89	9066
PROPOSED RULES:		159	8950	1952	8955
545	8980	PROPOSED RULES:		2609	8769
13 CFR		1	8800	32 CFR	
PROPOSED RULES:		20 CFR		245	9322
107	8800	405	9307	41	9088
121	9297	21 CFR		1201	9093
14 CFR		4	9317	1202	9105
39	8766, 9298-9301	123	8975	1203	9106
71	9301, 9302	135c	9149	1204	9110
73	9302	135d	9149	1205	9110
75	9302	135e	9149	1206	9112
97	9303	314	9317	1207	9114
293	9305	520	9149	1208	9115
374	9303	522	8976, 9150	1209	9116
1206	9307	540	9150	1210	9116
		555	9150	1212	9116
		558	9150	1213	9117
		561	8768, 8975	1214	9118
				1215	9119
				1216	9119
				1217	9123
				1219	9123

FEDERAL REGISTER

32 CFR—Continued

1220	9124
1221	9124
1225	9125
1250	9125

PROPOSED RULES:

243	9173
1450	8984
1451	8984
1470	8984
1471	8984
1472	8984
1473	8984
1474	8984
1475	8984
1477	8984
1480	8984
1498	8984
1499	8984

33 CFR

25	9328
82	8769
209	9338

PROPOSED RULES:

110	8794
-----	------

36 CFR

PROPOSED RULES:

221	9363
-----	------

38 CFR

PROPOSED RULES:

3	9201, 9396
---	------------

39 CFR

111	9395
-----	------

40 CFR

35	9340
52	8769, 8770, 9339
180	8770, 9344

40 CFR—Continued

PROPOSED RULES:

52	9376, 9377
180	8798

41 CFR

14-7	8973
14-10	8972
14-11	8975
101-11	3771

43 CFR

PROPOSED RULES:

3206	8794
3500	9363
3520	9363

PUBLIC LAND ORDERS:

5572	8975
5573	9345

45 CFR

99	9062
177	8975
1228	8791
1501	8790

PROPOSED RULES:

1067	9376
------	------

46 CFR

401	8775
503	9153
536	9154

PROPOSED RULES:

64	9188
146	9188

47 CFR

1	9345
2	9154
15	9345
68	9154

47 CFR—Continued

73	8777, 8779
97	8780

PROPOSED RULES:

15	9189
73	8799, 9190, 9191
83	8799

49 CFR

571	8783, 9350
581	9346
1033	8790, 8971, 8972
1100	8790
1201	9157, 9162
1202	9157, 9162
1203	9157, 9162
1204	9158, 9163
1205	9158, 9163
1206	9159, 9164
1207	9159, 9164
1208	9159, 9165
1209	9160, 9165
1210	9160, 9166
Ch. X	9351

PROPOSED RULES:

171	9188
179	9188
390	8979
571	9374
581	9374
1048	9397
1049	9397
Ch. X	9202

50 CFR

25	9166
26	9167
27	9168
28	9171, 9355
33	9355

PROPOSED RULES:

20	9177
----	------

FEDERAL REGISTER PAGES AND DATES—MARCH

Pages	Date
8765-8941	1
8943-9082	2
9083-9296	3
9297-9531	4

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Frequency allocation for oil spill cleanup operations; availability and use of service..... 4827; 2-2-76

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 6184..... Pub. Law 94-217
An act to amend section 40 of the Bankruptcy Act to fix the salaries of referees in bankruptcy
(Feb. 27, 1976; 90 Stat. 192)

H.R. 6949..... Pub. Law 94-218
An act to make the film "Wilma Rudolph Olympic Champion", which was produced by the United States Information Agency, available for certain limited use within the United States in conjunction with promotion of the 1976 Olympic Games
(Feb. 27, 1976; 90 Stat. 193)
H.R. 11645..... Pub. Law 94-219
An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building
(Feb. 27, 1976; 90 Stat. 194)
H.J. Res. 784..... Pub. Law 94-220
Joint resolution to amend the effective date of certain provisions of the Defense Production Act Amendments of 1975
(Feb. 27, 1976; 90 Stat. 195)
S. 270..... Pub. Law 94-221
An act to authorize the Secretary of

Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes

(Feb. 27, 1976; 90 Stat. 196)

S. 2672..... Pub. Law 94-222
An act to extend the State Taxation of Depositories Act

(Feb. 27, 1976; 90 Stat. 197)

H.R. 5512..... Pub. Law 94-223
An act to amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes
(Feb. 27, 1976; 90 Stat. 199)

S.J. Res. 154..... Pub. Law 94-224
Joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended
(Feb. 27, 1976; 90 Stat. 201)

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN SYSTEM

[No. 76-155]

NOW Accounts

MARCH 1, 1976.

Section 2(a) of Public Law No. 93-100 of August 16, 1973, provides that "No depository institution [as defined in section 2(b)] shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire." Section 2(a) has been amended to include Connecticut, Rhode Island, Maine, and Vermont among the States to which the stated exception applies.

In view of this amendment, the Federal Home Loan Bank Board deems it advisable to amend its regulations relating to accounts covered by this exception (so-called NOW accounts or transaction accounts) to conform with this broadening of the section 2(a) exception to permit such accounts in these four additional States. The purposes of these amendments are (1) to make clear that the Board considers that section 2 of Public Law No. 93-100, as amended, permits each insured institution (including each Federal association) in Connecticut, Rhode Island, Maine, and Vermont (as well as Massachusetts and New Hampshire) to allow the owner of a savings account in such institution on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties and (2) to provide for the payment of interest or dividends on such accounts under prescribed conditions and limitations.

Accordingly, the Board hereby amends §§ 526.8 (a) and (e) of the Regulations for the Federal Home Loan Bank System (12 CFR 526.8 (a) and (e)), § 545.4-1(a) (3) of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.4-1(a) (3)), and § 563.7-3 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.7-3) to read as set forth below, effective March 4, 1976.

Since affording notice and public procedure on the above amendments would delay them from becoming effective for a period of time, and since it is in the public interest that such amendments become effective as soon as possible, the Board hereby finds that notice and pub-

lic procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); the Board also finds that publication of such amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. § 553 (d) prior to the effective date thereof is unnecessary since they relieve restrictions, and the Board therefore hereby provides that such amendments shall become effective as hereinbefore set forth.

PART 526—LIMITATIONS ON RATE OF RETURN

1. In § 526.8, paragraphs (a) and (e) are revised to read as follows:

§ 526.8 Transaction accounts.

(a) General. Subject to the provisions of this section, a member institution having its home office in New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont may pay a return on transaction accounts.

(e) *Advertising.* To the extent practicable, member institutions shall limit every advertisement, announcement, or solicitation relating to transaction accounts made in any newspaper, magazine, radio, television, or any other form of communication to such media or other communications as are directed toward residents of New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, and Vermont and which have a substantial circulation or audience within those States. The provisions of § 526.6 shall also apply to all advertisements, announcements, and solicitations related to transaction accounts.

PART 545—OPERATIONS

2. In § 545.4-1, paragraph (a) (3) is revised to read as follows:

§ 545.4-1 Payments to third parties by withdrawals or transfer of savings accounts; checks and money orders.

(a) Withdrawals and transfers.

(3) *Exception for transaction accounts.* Notwithstanding this paragraph (a) or any other provision of this subchapter C to the contrary, each Federal association having its home office in New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont may allow the owner of a savings account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

PART 563—OPERATIONS

3. Revise § 563.7-3 to read as follows:

§ 563.7-3 Exception for transaction accounts.

Notwithstanding any other provision of this subchapter D to the contrary, each insured institution having its principal office in New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont is not prohibited from allowing the owner of a savings account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91-151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260 as amended; 12 U.S.C. 1725, 1726, 1730; Public Law 93-100, as amended; Reorg. Plan No. 3 of 1947, 12 F.R. 4981; 3 CFR, 1943-48 Comp., p. 1071, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL]

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 76-6274 Filed 3-3-76; 8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 13, Amdt. 11]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Term "Number of Employees"

On December 2, 1975, the Small Business Administration published in the FEDERAL REGISTER (40 FR 55868) a notice that it proposed to revise the procedure for computing a concern's "number of employees."

The declared purpose of the proposal was to prevent concerns from retaining small business eligibility by temporarily dismissing employees so that they would not appear on one or more of the payrolls utilized under the current method of computation, and then rehiring them after the pertinent payroll periods had passed. The public was given until January 2, 1976, to file written comment.

The most significant comment received was to the effect that the proposed rule would limit a concern's flexibility in taking steps to remain small, that it would cause certain concerns to stop employing students on a part-time basis, that it would prevent concerns from hiring part-time help to fill in for

employees on vacation, that it was an overreaction to actions taken by one company, and that it would cause an unreasonable increase in clerical work.

We have carefully considered all arguments received and have concluded that the proposed change is in the best interests of our small business assistance programs. With respect to the comments to which reference is made above, it is our view that there should be no flexibility in the computation of a concern's number of employees. We do not consider it desirable for concerns to be able to adjust their employment practices to produce a "number of employees" figure that does not accurately reflect their normal size in terms of employment. It always has been our intent that all part-time employees be included in the employment count and, therefore, we do not consider the new rule to be a change in this regard. Not to count "part-time" employees, including those hired to replace those on vacation, would permit additional employment practices designed to avoid the limitations of the size standards and thus would not be desirable. Further, we do not consider the new rule to be an overreaction. If one or more concerns can adjust hiring practices to become small, all can follow the example and we do not want that to happen. Finally, although the new rule may require somewhat more clerical work, we consider it necessary in order for us to be able to determine which concerns in fact meet our size standards.

Accordingly, § 121.3-2(t) of Part 121, Chapter I, Title 13 of the Code of Federal Regulations is hereby revised to read as follows:

§ 121.3-2 Definition of terms used in this part.

(t) "Number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceding 12 months. Provided, however, if, for the purpose of determining a concern's eligibility for financial assistance under a Small Business Administration program, it is determined that a concern's employment in its most recently completed calendar quarter is at least 25 percent lower than its employment in the corresponding quarter in the preceding calendar year and that such reduction in employment was primarily due to the shortage of energy or materials, its "number of employees" for size determination purposes shall be determined by reducing its average employment for the preceding 12 months by the determined percentile. If a concern has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period

that such concern has been in business. If a concern has acquired an affiliate during the applicable accounting period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire applicable accounting period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

Effective date. This amendment shall become effective May 3, 1976, but shall apply only to procurements or sales for which invitations for bids or requests for proposals are issued on or after such effective date.

Dated: February 26, 1976.

(All SBA programs listed in the Catalog of Federal Domestic Assistance Programs under Nos. 59.001-59.025)

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-6182 Filed 3-3-76; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-11-AD; Amdt. 39-2536]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 35, 35R, A35 and B35 and Pine Air Model Super-V Airplanes

Amendment 39-2370 (40 F.R. 42854), AD 75-20-04, applicable to Beech Models 35, 35R, A35 and B35 airplanes, is an Airworthiness Directive (AD) which requires repetitive visual and dye penetrant inspections of the stabilizer attach fitting for cracks, and if cracked, the replacement thereof along with attaching hardware.

Subsequent to the issuance of AD 75-20-04 the FAA has found that the inspection and/or replacement requirements of the AD should be made applicable to Pine Air Model Super-V airplanes, which model incorporates structural components of Beech Models 35, 35R, A35 and B35 airplanes. In addition, the manufacturer has designed and made available an improved P/N 35-650044-1 stabilizer attach fitting, which when installed, removes the need for the repetitive inspections. Accordingly, in the interest of safety, an AD is being issued, superseding AD 75-20-04, which will be applicable to Beech Models 35, 35R, A35 and B35 and Pine Air Super-V airplanes. The new AD will reiterate the requirements of AD 75-20-04 and will also include a relaxatory paragraph authorizing discontinuance of the required inspections when the improved stabilizer attach fitting has been installed.

Since a situation exists which requires expeditious adoption of the amendment and it is partially relieving in nature, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models 35, 35R, A35 and B35 (Serial Number D-1 thru D-2680) and Pine Air Model Super-V (Serial Numbers SV-XXX-D-1 thru XXX-D-2680) airplanes, having 1,000 or more hours' time in service.

Compliance: Required as indicated, unless already accomplished per AD 75-20-04.

To prevent possible stabilizer loss or failure, on those airplanes having the P/N 35-405130 stabilizer attach fitting, within 50 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 1,000 hours' time in service, accomplish the following in accordance with Beechcraft Service Instruction 0729-130, Rev. I or later FAA-approved revisions:

(A) Remove stabilizer attach bolts, plates and other components necessary to provide access to the stabilizer attach fitting and then remove said fitting.

(B) Inspect the stabilizer attach fitting by visual and dye penetrant methods in accordance with the procedures specified in FAA Advisory Circular (AC) 43.13-1A.

(C) If as a result of any inspection required herein, a stabilizer attach fitting is found cracked, prior to further flight, replace it with a new or airworthy P/N 35-405130 or P/N 35-650044-1 stabilizer attach fitting.

(D) When P/N 35-650044-1 stabilizer attach fitting has been installed the requirements of this AD no longer apply.

(E) If a crack is found as a result of any inspection required herein, provide the FAA with written notification thereof utilizing Malfunction and Defect Report (FAA Form 8330-2) stating the location and length of any crack discovered and the total operating time of the airplane or part at the time of discovery. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

(F) Aircraft may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

(G) Any alternate method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment supersedes AD 75-20-4, Amendment 39-2370.

This amendment becomes effective March 12, 1976.

(Secs. 318(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Kansas City, Mo., on February 26, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-6311 Filed 3-3-76; 8:45 am]

[Docket No. 76-NW-1-AD; Amdt. 39-2538]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

There have been reports of corrosion in fuselage skins on the Model 747 series airplanes. In one instance a crack approximately 75 inches long developed in the corroded area resulting in partial loss of cabin pressurization. Since this condition is likely to exist or develop in other

airplanes of the same type design, an airworthiness directive is being issued to require inspection and repair if necessary of certain fuselage skin lap joints on the Model 747 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to the Model 747 series airplanes certificated in all categories which are listed in Boeing Service Bulletin No. 747-53-2131.

To prevent corrosion cracks in the fuselage lap joints accomplish the following:

A. Inspect the fuselage skin lap splices which are covered by the wing-to-body fairings in accordance with Boeing Service Bulletin No. 747-53-2131.

1. Within the next 300 hours time in service or 2 months, whichever is less, unless accomplished within the last 3,000 hours time in service, on airplanes with 16,000 hours or more time in service, or

2. Within the next 1,000 hours time in service or 6 months, whichever is less, unless accomplished within the last 3,000 hours time in service, on airplanes with more than 12,000 hours but less than 16,000 hours time in service.

B. If evidence of corrosion is found but there are no cracks or missing fasteners, the airplane may continue in service provided it is inspected at intervals not to exceed 1,000 hours time in service.

C. If cracks or missing fasteners are found, repair before further flight in accordance with Boeing Service Bulletin No. 747-53-2131.

D. This AD will be amended in the near future to require a repeat inspection interval.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(c) (1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 19, 1976.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Seattle, Wash., February 27, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE: The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-6312 Filed 3-3-76; 8:45 am]

[Airworthiness Docket No. 75-SW-79, Amdt. 39-2528]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 206A, 206B, 206A-1 and 206B-1 Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a one-time inspection and possible rework of the main rotor hub yoke on certain Bell Models 206A and 206B helicopters and on all Models 206A-1 and 206B-1 helicopters was published in 40 FR 59221.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL: Applies to Bell Models 206A, 206B, 206A-1, and 206B-1 helicopters certificated in all categories, except those having installed main rotor hub yokes delivered as replacement spare parts from Bell Helicopter Company after August 11, 1974, and Models 206A and 206B bearing serial numbers 1174, 1192, 1252, 1355, 1381, 1382, 1390, 1398, 1399, 1400, 1408 through 1411, 1444, 1464, 1466, and subsequent.

Compliance required within 200 hours' time in service after the effective date of this AD unless already accomplished.

To detect and prevent possible cracks in the main rotor hub yokes, accomplish the following:

(a) Remove the main rotor hub assembly from the helicopter and remove the pillow blocks and trunnion from the hub assembly in accordance with the pertinent model maintenance manual.

(b) Inspect the yoke for cracks in each trunnion bore and in each tooling hole in the yoke web section using a 10-power or higher magnifying glass or an equivalent inspection method.

(c) If a crack is found, remove and replace the discrepant yoke before further flight.

(d) Inspect each yoke trunnion bore edge for nicks, scratches, or tool marks using a 10-power or higher magnifying glass or an equivalent inspection method.

(e) If nicks, scratches, or tool marks are found on these edges, they must be removed, before further flight, as prescribed in Bell Helicopter Company Service Bulletin No. 206-04-1-74-1, Revision A, dated August 22, 1974, or later approved revision or in accordance with an equivalent FAA approved procedure.

(f) Assemble and install the main rotor hub on the helicopter in accordance with the pertinent model maintenance manual.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a) (1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Company, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at

FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective March 30, 1976

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

HENRY L. NEWMAN,
Director, Southwest Region.

Issued in Fort Worth, Texas, on February 17, 1976.

NOTE: The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-5593 Filed 3-3-76; 8:45 am]

[Airworthiness Docket No. 74-WE-31-AD; Amdt. 39-2533]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10-10/-30/-40 Airplanes

Amendment 39-1927 (39 F.R. 30109), AD 74-18-01, imposes an AFM Limitation which requires incorporation of wiring per Douglas drawing WBP 9502 if unpressurized flight is planned. After issuing Amendment 39-1927, the agency was requested to make provision for an alternate means of compliance with this AD. The agency agrees with the request. Therefore, the AD is being amended to provide for approvals by the Chief, Aircraft Engineering Division, FAA Western Region, of equivalent or alternate means of compliance with Amendment 39-1927.

Since this amendment provides for additional means of compliance, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), Section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1927, (39 F.R. 30109), AD 74-18-01 is amended to read, in pertinent part, as follows:

MCDONNELL DOUGLAS Model DC-10-101-301-40 Airplanes

"Within 300 additional hours time in service after the effective date of this AD, either

(1) Incorporate in the FAA-approved Airplane Flight Manual, Documents MDC-J1010, MDC-J1030, MDC-J5830, MDC-J1040, and Appendix X of MDC-J1010, the following revision in Section I, Limitations, under the existing heading 'Cabin Pressurization':

'For the inertial platform configured airplanes, temporary installation of wiring per Douglas Drawing WBP 9502 must be accomplished for planned unpressurized flight'; or

(2) Incorporate other airplane flight manual revisions, and/or equipment modification

approved by the Chief, Aircraft Engineering Division, FAA Western Region."

This amendment becomes effective March 8, 1976.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on February 20, 1976.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.76-5841 Filed 3-3-76;8:45 am]

[Docket No. 75-EA-50; Amdt. 39-2531]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-31 type airplanes.

There have been reports of a potential hazard resulting from toxic battery fumes being drawn into the airplane cabin due to the location of the battery vent and drain system. Since this hazard can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which will require an alteration and relocation of the drain and vent.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding a new airworthiness directive as follows:

PIPER AIRCRAFT. Applies to Model PA-31-350, S/Ns 31-5001 to 31-7552073 inclusive.

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished. To prevent the hazards associated with toxic fumes from the battery being drawn into the cabin, accomplish the following:

(a) Relocate and modify the battery drain and vent system in accordance with Piper Service Bulletin No. 460A, dated January 23, 1976, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

This amendment is effective March 5, 1976.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Jamaica, N.Y., on February 20, 1976.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.76-5839 Filed 3-3-76;8:45 am]

[Docket No. 75-EA-87; Amdt. 39-2532]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-31 type airplanes.

There has been a report that the bolts that hold the control shaft collar to the roller attachment were found loose. It appears that a lack of control of the depth of a counterbore could allow improper thread engagement.

Since this deficiency can exist or develop in aircraft of similar type design, an airworthiness directive is being issued which will require an alteration to the attachment of the control shaft collar to the control shaft tube.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding a new airworthiness directive as follows:

PIPER: Applies to Models PA-31, PA-31-300, and PA-31-325, Serial Numbers 31-2 through 31-7612009; Model PA-31-350, Serial Numbers 31-5001 through 31-7652018; Model PA-31P, Serial Numbers 31P-1 through 31P-7630001 and 31P-7630003; Model PA-31T, Serial Numbers 31T-7400002 through 31T-7620002, 31T-7620004, 31T-7620005 and 31T-7620007, certificated in all categories.

To prevent possible hazards in flight associated with loose bolts which attach the control shaft collar to the control shaft tube, accomplish the following within the next fifty hours in service from the effective date of this AD unless previously accomplished.

(a) Alter the attachment of the control shaft collar to the control shaft tube in accordance with Piper Service Letter No. 643 and the directions contained in paragraphs one through eight of the "Instructions" section of Piper Service Bulletin No. 487 or approved equivalent alteration.

(b) Equivalent alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective March 5, 1976.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Jamaica, N.Y., on February 20, 1976.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.76-5840 Filed 3-3-76;8:45 am]

[Docket No. 75-EA-88, Amdt. 39-2535]

PART 39—AIRWORTHINESS DIRECTIVES

United Aircraft of Canada, Ltd.

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to United Aircraft of Canada, Ltd. APU Model ST6L-73.

There have been reports of fuel pump leakage in the subject power units which leakage could result in fire damage. Since this deficiency can exist or develop in power units of similar design, an airworthiness directive is being issued which will require an inspection of the fuel pump and eventual replacement of the injector cap and screen assembly.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding a new airworthiness directive as follows:

UNITED AIRCRAFT OF CANADA LIMITED
AUXILIARY POWER UNIT MODEL ST6L-73

Compliance required as indicated unless previously accomplished. To preclude leakage of the Sundstrand Aviation 025277 series fuel pump without the part number 5002557 injector cap and screen assembly, accomplish the following:

(a) Within the next twenty hours in service after the effective date of this A.D., unless previously accomplished, inspect all fuel pumps with less than 250 hours time in service since new in accordance with paragraph 2, Accomplishment Instructions of Pratt & Whitney of Canada Limited Alert Service Bulletin No. 9046 dated August 19, 1975, or approved equivalent inspection.

(b) Within the next 250 hours in service after the effective date of this A.D., unless previously accomplished, install part number 5002557, injector cap and screen assembly, in accordance with paragraph 2, Accomplishment Instructions of Pratt & Whitney Aircraft of Canada Limited Service Bulletin No. 9043, dated September 2, 1975, or approved equivalent instructions.

The aircraft may be flown in accordance with FAR 21.197 to a base where the alteration or inspection can be performed.

An equivalent alteration or inspection must be approved by the Chief, Engineering and Manufacturing Branch, of the Eastern Region of the FAA. This amendment is effective March 9, 1976.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Jamaica, N.Y., on February 23, 1976.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-6048 Filed 3-2-76;8:45 am]

[Airworthiness Docket No. 74-SW-26;
Amdt. 39-2530]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 206B Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modification of the inboard rib on the right and left stabilizers on Bell Model 206B helicopters, serial numbers 914 through 1413, was published in 40 FR 59221.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Only one comment was received. One operator requested that their exemption to AD 74-19-03 be included in the new AD. All exemptions issued for Amdt. 39-1954, AD 74-19-03, are considered to be approved equivalent means of compliance with this airworthiness directive.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Model 206B helicopters, serial numbers 914 through 1413, certificated in all categories.

Compliance required within 200 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible failure of the inboard ribs on the horizontal stabilizers, P/N 206-020-119 and 206-020-123, replace any cracked inboard ribs and modify all inboard ribs by installing a doubler specified in, and using, the applicable procedures described in Items 3 through 24, Bell Helicopter Company Service Bulletin No. 206-01-73-7, Revision D, dated August 5, 1974, or later FAA approved revision.

Equivalent methods of compliance with this airworthiness directive may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

Exemptions issued for Amdt. 39-1954, AD 74-19-03, are approved equivalent means of compliance with this airworthiness directive.

The manufacturer's specifications and procedures identified and described in the directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Company, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective April 5, 1976.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Fort Worth, Texas, on February 19, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE: The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-6189 Filed 3-3-76;8:45 am]

[Airworthiness Docket No. 74-SW-37; Amdt. 39-2529]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Models SA-226-T, SA226-AT, and SA226-TC Airplanes

Amendment 39-2012 (34 F.R. 40252), AD 74-24-02 in part, requires horizontal spar reinforcement and 200-hour interval inspections on Swearingen Models SA226-TC and SA226-AT airplanes. Since issuing Amdt. 34-2012, the FAA has evaluated additional service inspection and structural design data and determined that the 200-hour inspection interval may be extended to 500 hours.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 FR 13697, § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2012 (34 FR 40252), AD 74-24-02 is further amended by changing paragraph (c) (3) to read as follows:

After the rework specified in (c) (2), continue the inspections specified in (a) for the Models SA226-TC and SA226-AT at intervals not to exceed 500 hours' time in service from the date of rework or from the effective date of this AD if the rework was accomplished before the effective date.

Amendment 39-2012 superseded Amendment 39-1950, AD 74-18-14, and became effective November 18, 1974.

This amendment becomes effective March 8, 1976.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Fort Worth, Texas, on February 19, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-6190 Filed 3-3-76;8:45 am]

[Airspace Docket No. 76-WE-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Edwards Air Force Base (AFB), California Control Zone and Transition Area.

The Department of the Air Force has resurveyed Edwards AFB, California and has determined that a minor correction to the airport reference point is necessary. In addition, the Edwards AFB TACAN was decommissioned and has been replaced by a VORTAC. It is, therefore, necessary to make editorial changes to the description of the Edwards AFB Control Zone and Transition Area to reflect these changes.

Since this amendment is editorial in nature, involves no change in airspace boundaries and imposes no additional burden on any person, notice and public procedure thereon is unnecessary and the amendment may be effective in less than 30 days.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 GMT, March 4, 1976, as hereinafter set forth.

In § 71.171 (41 F.R. 355) the description of the Edwards AFB, California Control Zone is amended to read as follows:

Edwards AFB, California
Within an 8-mile radius of Edwards AFB (latitude 34°54'20" N., longitude 117°52'58" W.).

In § 71.181 (41 F.R. 440) the description of the Edwards AFB, California Transition Area is amended to read as follows:

Edwards AFB, California
That airspace extending upward from 700 feet above the surface within a 15-mile radius of Edwards AFB (latitude 34°54'20" N., longitude 117°52'58" W.), within 2 miles SE and 8 miles NW of the Edwards AFB VORTAC 057° radial extending from the 15-mile radius area to 12.5 miles NE of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on February 18, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76-5843 Filed 3-3-76;8:45 am]

[Airspace Docket No. 76-SW-81]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Enid, Okla., control zone.

On January 12, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 1763) stating the Federal Aviation Administration proposed to alter the Enid, Okla., control zone.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 20, 1976, as hereinafter set forth.

ENID, OKLA.

[Airspace Docket No. 76-SO-18]

That airspace within a 5-statute-mile radius of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.) and within 3 statute miles west and 3 statute miles east of the Vance VORTAC (latitude 36°20'43" N., longitude 97°55'04" W.) 178.5° radial extending from the 5-statute-mile-radius zone to the 7 DME fix; and within 4 statute miles west and 5 statute miles east of the Vance VORTAC 358.5° radial extending from the 5-statute-mile-radius zone to the 6 DME fix; and within a 5-statute-mile radius of Enid Woodring Municipal Airport (latitude 36°22'45" N., longitude 97°47'30" W.) and within 2 statute miles each side of the Woodring VOR (latitude 36°22'26" N., longitude 97°47'17" W.) 354.5° radial, extending from the 5-statute-mile-radius zone to 8 statute miles north of the VOR; and within 2 statute miles east and 4 statute miles west of the Woodring VOR 184.5° radial, extending from the 5-statute-mile-radius zone to 8 statute miles south of the VOR. This control zone is effective during the dates and times published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

ALBERT H. THURBURN,
Acting Director, Southwest Region.

Issued in Fort Worth, Tex., on February 19, 1976.

[FR Doc. 76-6046 Filed 3-3-76; 8:45 am]

[Airspace Docket No. 76-SO-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Memphis, Tenn., (NAS) transition area.

The Memphis transition area is described in § 71.181 (41 FR 440). In the description, an extension is predicated on the 083° bearing from NAS Memphis RBN. The RBN has been decommissioned and it is necessary to alter the description by revoking the extension. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 20, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Memphis, Tenn. (NAS) transition area is amended by deleting:

"* * * within 3 miles each side of the 083° bearing from NAS Memphis RBN, extending from the 12-mile radius area to 8.5 miles east of the RBN; * * *

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on February 23, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 76-6047 Filed 3-3-76; 8:45 am]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Miami, Fla., transition area.

The Miami transition area is described in § 71.181 (41 FR 440). The description contains several extensions where they are no longer needed. In addition, the Perrine RBN which serves Tamiami Airport is being relocated and a transition area extension predicated on the RBN will be required. This amendment will revoke the extensions which are no longer needed and designate the required extension. Since this amendment is minor in nature and reduces the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, May 20, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Miami, Fla., transition area is amended to read:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Miami International Airport (Lat. 25°47'34" N., Long. 80°17'00" W.), Homestead AFB (Lat. 25°29'15" N., Long. 80°23'00" W.), Opa Locka Airport (Lat. 25°54'26" N., Long. 80°16'48" W.), Fort Lauderdale-Hollywood International Airport (Lat. 26°04'26" N., Long. 80°09'10" W.), and Tamiami Airport (Lat. 25°38'51" N., Long. 80°25'59" W.); within 3 miles each side of the 269° bearing from the Perrine RBN, extending from the 8.5-mile radius area to 8.5 miles west of the RBN; within a 6.5-mile radius of Fort Lauderdale Executive Airport (Lat. 26°11'41" N., Long. 80°10'15" W.), and Pompano Beach Airport (Lat. 26°15'00" N., Long. 80°06'30" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on February 23, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 76-6191 Filed 3-3-76; 8:45 am]

[Airspace Docket No. 76-SO-8]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the controlling agency and the using agency for Subarea A and Subarea B of Restricted Area R-2907 Lake George, Fla.

The change will correct the identity of both the military organization which coordinates military use of the area and the Federal Aviation Administration organization which exercises air traffic control in the associated airspace when the using agency has no requirement for the area.

Since designation of a different controlling agency and using agency is a minor amendment upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, as it is essential that the correct controlling agency and using agency for Subarea A and Subarea B of R-2907 be identified, good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon March 4, 1976.

In § 73.29 (41 FR 664) the controlling agency and using agency for Subarea A and Subarea B of R-2907 Lake George, Fla., are changed to read as follows:

Controlling agency, Federal Aviation Administration, Jacksonville ARTC Center.

Using agency, Jacksonville Operating Area Coordination Center (JOACC), NAS Jacksonville, Fla.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 25, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 76-5844 Filed 3-3-76; 8:45 am]

[Airspace Docket No. 75-WA-16]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Redesignation of Jet Routes; Effective Date and Correction

In FR Doc. 76-2048 appearing on page 3466 in the FEDERAL REGISTER of January 23, 1976, a rule was adopted amending certain jet routes contained in § 75.100 of the Federal Aviation Regulations. The effective date of the amendment appearing on page 3466 was to be March 25, 1976. The changes adopted pertained to a reorganization of certain U.S. segments of J/HL routes serving Eastern Canada. The reorganization of these routes are in part predicated on the installation of the Mirabel, Quebec VOR. The Canadian Ministry of Transport has advised that the commissioning of the Mirabel VOR has been delayed, and they have requested that the effective date of the amendment contained in Airspace Docket No. 75-WA-16 be suspended indefinitely. Accordingly, the effectiveness of FR Doc. 76-2048 appearing on page 3466 in the FEDERAL REGISTER of January 23, 1976, is suspended indefinitely. When the commissioning date of the Mirabel VOR becomes known, an effective date for the actions adopted will be published in a subsequent issue of the FEDERAL REGISTER.

Additionally, certain editorial changes to the descriptions of the jet routes contained in that document are required. As no substantive change will be made in the action as published, the changes are adopted herein without further rule making procedures.

Accordingly the following editorial changes appearing on page 3466 are made:

1. Item 1. is corrected to read as follows: "In Jet Route No. 553, "From Beauce, Quebec, via Houlton, Me.; to Moncton, New Brunswick. is deleted."

2. In Item 2, the spelling of "Houlton, Maine." is corrected to read "Houlton, Maine."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 26, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 76-6049 Filed 3-3-76; 8:45 am]

[Docket No. 15413; Amdt. No. 1010]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective April 22, 1976.

Porterville, CA—Porterville Municipal Arpt., VOR Rwy 30, Amdt. 2
San Diego, CA—Montgomery Field, VOR/DME-C, Amdt. 2
Dickinson, ND—Dickinson Municipal Arpt., VOR Rwy 17, Amdt. 10
Corvallis, OR—Corvallis Municipal Arpt., VOR Rwy 17, Amdt. 9, Canceled
Corvallis, OR—Corvallis Municipal Arpt., VOR-B, Orig.
Corvallis, OR—Corvallis Municipal Arpt., VOR/DME Rwy 17, Orig.
El Campo, TX—El Campo Metro Inc. Arpt., VOR/DME Rwy 35, Amdt. 1

* * * effective April 15, 1976.

Panama City, FL—Panama City-Bay County Arpt., VOR Rwy 14, Amdt. 7
Panama City, FL—Panama City-Bay County Arpt., VOR Rwy 32, Amdt. 4
Panama City, FL—Panama City-Bay County Arpt., VOR-A, Amdt. 7
Griffin, GA—Griffin-Spaulding County Arpt., VOR/DME Rwy 13, Amdt. 2
Baltimore, MD—Baltimore-Washington Int'l Arpt., VOR Rwy 10, Amdt. 10
Baltimore, MD—Baltimore-Washington Int'l Arpt., VOR/DME Rwy 22, Amdt. 3
Baltimore, MD—Baltimore-Washington Int'l Arpt., VOR Rwy 28, Amdt. 15
Langhorne, PA—Buehl Field, VOR Rwy 6, Amdt. 4
Philadelphia, PA—North Philadelphia Arpt., VOR Rwy 6, Amdt. 8
Philadelphia, PA—North Philadelphia Arpt., VOR Rwy 24, Amdt. 16
Bennington, VT—Bennington State Arpt., VOR-A, Amdt. 4
Janesville, WI—Rock County Arpt., VOR Rwy 4, Amdt. 19
Janesville, WI—Rock County Arpt., VORTAC Rwy 22, Amdt. 6

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective April 15, 1976.

Baltimore, MD—Baltimore-Washington Int'l Arpt., LOC(BC) Rwy 33L, Amdt. 3

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective April 22, 1976.

La Junta, CO—La Junta Municipal Arpt., NDB Rwy 8, Amdt. 2
Laredo, TX—Laredo Int'l Arpt., NDB Rwy 15, Amdt. 2, Canceled

* * * effective April 15, 1976.

Pella, IA—Pella Municipal Arpt., NDB Rwy 34, Amdt. 2
Kansas City, MO—Kansas City Int'l Arpt., NDB Rwy 9, Amdt. 5
Wilmington, VT—Mt. Snow Arpt., NDB-A, Amdt. 1, Canceled

* * * effective March 25, 1976.

North Conway, NH—White Mountain Arpt., NDB-A, Amdt. 4

* * * effective March 18, 1976.

Columbus, OH—Port Columbus Int'l Arpt., NDB Rwy 10L, Amdt. 1

* * * effective February 20, 1976

Dayton, OH—James M. Cox Dayton Municipal Arpt., NDB Rwy 24L, Orig., Canceled
Dayton, OH—James M. Cox Dayton Municipal Arpt., NDB Rwy 24R, Orig., Canceled

4. Section 97.29 is amended by originating, amending, or canceling the fol-

lowing ILS SIAPs, effective April 22, 1976.

Kailua-Kona, HA—Ke-Ahole Arpt., ILS/DME Rwy 17, Amdt. 2

* * * effective April 15, 1976

Panama City, FL—Panama City-Bay County Arpt., ILS Rwy 14, Amdt. 7
Baltimore, MD—Baltimore-Washington Int'l Arpt., ILS Rwy 10, Amdt. 6
Baltimore, MD—Baltimore-Washington Int'l Arpt., ILS Rwy 15R, Amdt. 7
Baltimore, MD—Baltimore-Washington Int'l Arpt., ILS Rwy 28, Amdt. 1
Kansas City, MO—Kansas City Int'l Arpt., ILS Rwy 9, Amdt. 7
Rochester, NY—Rochester-Monroe County Arpt., ILS Rwy 4, Amdt. 7
Philadelphia, PA—North Philadelphia Arpt., ILS Rwy 24, Amdt. 6
Janesville, WI—Rock County Arpt., ILS Rwy 4, Amdt. 3

* * * effective March 18, 1976

Columbus, OH—Port Columbus Int'l Arpt., ILS Rwy 10L, Amdt. 7

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective April 15, 1976.

Baltimore, MD—Baltimore-Washington Int'l Arpt., Radar-1, Amdt. 6

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective April 15, 1976.

Winfield-Arkansas City, KS—Strother Field, RNAV Rwy 35, Orig.
Baltimore, MD—Baltimore-Washington Int'l Arpt., RNAV Rwy 22, Amdt. 2
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV Rwy 26, Amdt. 1, Canceled
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV Rwy 8, Orig., Canceled
State College, PA—University Park Arpt., RNAV Rwy 6, Orig.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 26, 1976.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 F.R. 5610).

JAMES M. VINES,
Chief, Aircraft Programs Division.

[FR Doc. 76-6188 Filed 3-3-76; 8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-101]

PART 374—IMPLEMENTATION OF THE CONSUMER CREDIT PROTECTION ACT WITH RESPECT TO AIR CARRIERS AND FOREIGN AIR CARRIERS¹

Amendment and Reissuance of Part

FEBRUARY 27, 1976.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

¹ The title of Part 374 has been modified to refer only to the formal name of the basic statute which is the "Consumer Credit Protection Act."

Part 374 of the Civil Aeronautics Board's Special Regulations (14 CFR 374) sets out the Board's enforcement responsibility under the Consumer Credit Protection Act (82 Stat. 146 *et seq.*; 15 U.S.C. 1601 *et seq.*). That Act has seven titles, of which Titles I, VI, and VII give certain responsibilities to various federal agencies, including the CAB, for certain consumer credit activities of the enterprises they regulate.

Title I of the Consumer Credit Protection Act, which is known as the Truth in Lending Act,² contains requirements regarding disclosure of credit terms covering virtually the entire breadth of consumer credit. In 1974, Congress enacted a new chapter to Title I, the Fair Credit Billing Act,³ which provides requirements regarding credit billing and credit card practices. Title I also contains a delegation to the Board of the duty of enforcing its provisions as to "any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958, as amended.⁴

At the same time it enacted the Fair Credit Billing Act, Congress added a new title to the Consumer Credit Protection Act, Title VII, the Equal Credit Opportunity Act.⁵ Title VII contains prohibitions against discrimination in credit transactions on the basis of sex or marital status. Like Title I of the Consumer Credit Protection Act, Title VII contains a delegation to the Board of the duty of enforcing its provisions as to "any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958 as amended.⁶

Congress left unchanged the Board's responsibility regarding Title VI, Consumer Credit Reporting, of the Consumer Credit Protection Act,⁷ which contains provisions enabling consumers to protect themselves against arbitrary, erroneous, and malicious credit information.

The purpose of these amendments is to call attention to the recent amendments to the Consumer Credit Protection Act and the regulations of the Federal Reserve Board relating thereto⁸ insofar as they relate to air carriers and foreign air carriers. Because the amendments are so pervasive, we are reissuing

the part. We are also revising the title of Part 374 to reflect these changes.

Since the amendments herein are purely informational and procedural, notice and public procedure hereon are not necessary and the rules may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends and reissues Part 374 of its Special Regulations (14 CFR Part 374), effective February 27, 1976, to read as follows:

Sec.

374.1 Purpose.

374.2 Applicability.

374.3 Compliance with Consumer Credit Protection Act and regulations.

374.4 Procedure.

AUTHORITY: Sec. 204(a), Federal Aviation Act of 1958 (49 U.S.C. 1324(a)), Title I (the Truth in Lending Act) of 1968 as amended, 72 Stat. 743 (49 U.S.C. 1324(a)), Title I (the Truth in Lending Act) as supplemented by the Fair Credit Billing Act) Title V (General Provisions), Title VI (Fair Credit Reporting Act), and Title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, 82 Stat. 146 *et seq.* 84 Stat. 1127 *et seq.*, 88 Stat. 1511 *et seq.* (15 U.S.C. 1601-1666j, 1681-1681t, 1691-1691e) and Regulations B and Z of the Board of Governors of the Federal Reserve System 12 CFR Parts 202 and 226.

§ 374.1 Purpose.

The purpose of this part is to state the Civil Aeronautics Board's responsibilities with respect to Titles I, VI and VII of the Consumer Credit Protection Act, and Regulations B and Z of the Board of Governors of the Federal Reserve System insofar as applicable to the Board's responsibility thereunder.

§ 374.2 Applicability.

This regulation is applicable to all air carriers and foreign air carriers as defined in section 101 of the Federal Aviation Act of 1958, as amended, including, without limitation, direct carriers, air taxi operators authorized under Part 298, indirect air carriers authorized under Part 296, tour operators authorized under Parts 372, 372a, 373, 378, and 378a and foreign air carriers holding permits pursuant to section 402 of the Act to engage in indirect foreign air transportation.

§ 374.3 Compliance with the Consumer Credit Protection Act and regulations.

(a) Title I of the Consumer Credit Protection Act (the Truth in Lending Act as supplemented by the Fair Credit Billing Act)¹ sets forth certain requirements concerning billing information and dispute procedures. Section 108(a) (4) of that title provides that the Civil Aeronautics Board shall have the duty of ensuring compliance with the requirements of Title I "with respect to any air carrier of foreign air carrier subject to" the Federal Aviation Act of 1958. In addition, section 108(b) thereof provides that "[f]or the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any

¹ PL 90-321; 82 Stat. 146 *et seq.*, as amended by PL 93-495, 88 Stat. 1511 *et seq.*, 15 U.S.C. 1601-1666, 1666-1666j (Supp. IV, 1975).

requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(b) Title VI of the Consumer Credit Protection Act (the Fair Credit Reporting Act)² sets forth certain requirements concerning consumer credit reporting agencies and persons who use consumer credit reports. Section 621(b) (5) of that title provides that the Civil Aeronautics Board shall have the duty of ensuring compliance with the requirements of Title VI with respect to air carriers and foreign air carriers. In addition, section 621(c) thereof provides that "[f]or the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(c) Title VII of the Consumer Credit Protection Act (the Equal Credit Opportunity Act)³ sets forth certain requirements regarding discrimination in consumer credit transactions on the basis of sex or marital status. Section 704(a) (5) of that title provides that the Civil Aeronautics Board shall have the duty of ensuring compliance with the requirements of Title VII with respect to air carriers and foreign air carriers. In addition, section 704(b) thereof provides that "[f]or the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Title shall be deemed to be a violation of a requirement imposed under that Act."

(d) The Board of Governors of the Federal Reserve System has the statutory responsibility for prescribing regulations to carry out the purposes of Titles I and VII of the Consumer Credit Protection Act (the Truth in Lending Act as supplemented by the Fair Credit Billing Act and the Equal Credit Opportunity Act). It therefore has promulgated Regulation B (12 CFR Part 202)⁴ and Regulation Z (12 CFR Part 212).⁵ These regulations are deemed to be "requirements" of Titles I and VII of the Consumer Credit Protection Act.

§ 374.4 Procedure.

The procedure set forth in Subpart B of Part 302 of the Board's Rules of Practice in Economic Proceedings (Part 302 of this chapter) shall be applicable to proceedings for enforcement of the provisions of Titles I, VI and VII of the Consumer Credit Protection Act and Regulations B and Z of the Board of Governors of the Federal Reserve System.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-6245 Filed 3-3-76; 8:45 am]

² PL 91-508, 84 Stat. 1127 *et seq.*, 15 U.S.C. 1681-1681t.

³ PL 93-495, 88 Stat. 1521 *et seq.*, 15 U.S.C. 1691-1691e (Supp. IV, 1975).

⁴ 40 FR. 43200 September 19, 1975.

⁵ As amended at 40 FR. 49298, October 22, 1975.

² Section 101 *et seq.* of the Consumer Credit Protection Act, 82 Stat. 148, 15 U.S.C. 1601-1665.

³ Title III of PL 93-495 88 Stat. 1512 *et seq.*, 15 U.S.C. 1666-1666j.

⁴ Section 108(a) (4) of the Truth in Lending Act, as amended by PL 93-495, Title IV Section 403, 88 Stat. 1517 with respect to paragraph designation only.

⁵ Title V of PL 93-495, 88 Stat. 1521 *et seq.*, 15 U.S.C. 1691-1691e.

⁶ Section 704(a) (5) of the Equal Credit Opportunity Act, 88 Stat. 1522.

⁷ 84 Stat. 1127 (Title VI of Pub. L. 91-508, October 26, 1970).

⁸ 12 CFR Part 202 and 12 CFR Part 226. The Board of Governors of the Federal Reserve System (Federal Reserve Board) has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act and the Equal Credit Opportunity Act.

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-946]

PART 293—OPERATIONS BY AIR TAXIS IN ALASKAN BUSH ROUTES PURSUANT TO SUBCONTRACT AGREEMENTS WITH CERTIFICATED AIR CARRIERS

Enactment of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., February 27, 1976.

In EDR-272¹ the Board issued a Notice of Proposed Rulemaking to amend its Economic Regulations so as to add a new Part 293 which would (1) require prior Board approval for subcontract agreements between certificated carriers and air taxi operators involving Alaskan bush routes; and (2) specify guidelines to be followed by the Board in approving such agreements.

Pursuant to the notice, comments have been filed by Alaska Airlines, Coast Air, Inc., Parkair, Inc., Southeast Skyways, Inc., and Wien Air Alaska, Inc. One joint comment was filed by the Alaska Transportation Commission (ATC), the State of Alaska, the City of Fairbanks, Fairbanks North Star Borough, the Fairbanks Chamber of Commerce, Inc., Alaska Air Carrier's Association and the City of Fort Yukon;² another joint comment was filed by Munz Northern Airlines, Inc. and Metric, Inc., Sea Air-motive, Inc. submitted a response.

Upon consideration, the Board has determined to adopt the proposed rule, but with two modifications and one technical change, all as more fully discussed below. The tentative findings and conclusions set forth in EDR-272 are incorporated and made final, except as modified, and all requests contained in the comments are denied, unless specifically granted herein.

1. General Comments. Coast Air and Wien question the need for Part 293 as unnecessary and duplicative of existing regulation. However, there is presently no CAB regulation specifically designed to provide regular procedures for Alaskan subcontracting arrangements. We therefore adhere to the tentative view underlying the institution of this rule-making proceeding, that it is desirable to regularize, by subjecting to prior approval procedures, the subcontracting arrangements by which scheduled service is provided in Alaskan bush routes.

The proposed prior approval requirement was objected to by Wien on the ground that operations in Alaska will be unduly delayed, while Alaska and Coast Air urge that, if there must be a prior approval, then the Board should obligate itself to act within a specified

time.³ The Board is well aware of the degree of dependence on air service in Alaskan communities and of the necessity for prompt disposition of an application for approval of a subcontract. However, it would not be desirable to restrict the Board to a fixed deadline by which it must act on all subcontracts, some of which may be difficult and complex. In any event, it should be noted that we are tentatively approving existing subcontracts in Order 76-2-125, issued contemporaneously herewith, so that there should be no disruption of service being provided under present arrangements.

2. Procedural Requirements. ATC urges that the communities whose air service will be affected by the subcontracts be served with a copy of the application for approval and given the opportunity to comment on it. We consider this point well taken and are therefore adding a provision to § 293.2 that communities be served.

3. Standards for Approval. Sea Air-motive, Coast Air and Wien all question the proposed requirement that scheduled authority be obtained from the state by the air taxi party to a subcontract. They object on the grounds that the two separate proceedings involving both federal and state authorities are unnecessary and would tend to delay the implementation of subcontracted service.

Part 298, governing air taxis, already provides that Alaskan air taxis must hold authority from the state, and nothing before us in this proceeding leads us to believe that this should be changed. In the case of subcontracted service by air taxis, the services performed are scheduled services and the authority held by the taxi should so provide. Upon consideration of the comments, however, we are persuaded that we should not insist that the air taxi subcontractor have the necessary scheduled services authority at the time of filing his application with the Board; instead, we shall require only that he has by then filed for the requisite State authority. We are therefore modifying the proposed rule to provide that the air taxi subcontractor must submit a statement that he either holds, or has filed for, State authority to perform scheduled service.

ATC, Southeast Skyways, Munz Northern and Merric seek revision of proposed § 293.3(b) to require that the minimum duration of a subcontract be greater than the one year. Nothing before us persuades us that a one year minimum—as a general standard—is inappropriate at this time.

Several comments express concern regarding the provision of § 293.3(c) on compensation to the air taxi operator. For example, Coast Air, Alaska and Wien contend that the question of adequate

compensation and economic viability of a subcontract is solely a matter of business judgment and arms' length negotiating to be left to the carrier parties. We have decided to adopt this provision as proposed. Section 293.3(c) does not preclude good faith bargaining between independent parties, but it reflects the Board's legitimate concern that the public's interest in continued availability of air transportation will be adequately protected by the subcontract's financial arrangements. Munz Northern and Merric urge that the agreement be made subject to periodic renegotiations or cost-escalation provisions. The regulation does not preclude renegotiation of financial terms from time to time, but, of course, we would have to be apprised of any material change in the terms of an approved contract and reserve the right to require justification or further supportive data before accepting the modification proposed by the parties.

Alaska, Wien and Coast Air fear that the "backup support" provision of § 293.3(d) is potentially burdensome. We do not agree. The "backup" support provision only requires the certificated carrier to expressly undertake to do that which he is legally obligated to do, despite the subcontracting arrangement, i.e., to be prepared to supplement a subcontracting air taxi's service within reason as the need may arise.⁴ Alaska Airlines also suggests that "secondary" contracts between the certificated carrier and an additional air taxi be permitted for short-term supplemental service contemplated by § 293.3(d). However, we do not believe that any revision of the proposed rule is needed or warranted, since we think it clear that Part 293 should be applicable to such "secondary" contracts as well to the primary subcontract, except where emergency relief may be necessary on an ad hoc basis.

Alaska, Coast Air and Southeast Skyways maintain that the requirement of notice to the public of the certificated carrier-air taxi relationship as proposed in § 293.3(e), is vague; and Sea Air-motive argues that the section should not be read as requiring that the aircraft bear the certificated carrier's name. We do not believe that these comments necessitate any revision of the proposed rule. No further specificity would be helpful in describing the requirement that reasonable notice be given to the public of the relationship between the parties. Insofar as Wien objects to the term "agent" in that section, as raising complex legal questions, suffice it to say that a fundamental principle of our approach to these subcontracting arrangements is that the certificated carrier retains full primary responsibility for serving its route and we insist that, despite

² Insofar as ATC urges that compliance with this provision be monitored periodically, we intend of course to monitor this and other provisions, primarily through the reports which we will require in our order approving each agreement and through investigation of private complaints.

¹ Docket 26769, 39 F.R. 20503, June 11, 1974. The proposed rule was patterned after the guidelines recommended by Administrative Law Judge Ruhlen, in his Initial Decision, dated March 26, 1971, rendered in the Alaska Service Investigation, Docket 20826.

² The comment is referred to hereinafter as that of ATC, which served the document.

³ Alaska also desires that the applicability of the fee provisions of § 389.25(b)(1) to Part 293 agreements be clarified. Filings of these agreements are "Board required" and the fee is \$50.

existence of a subcontract, the continuing responsibility of the certificated carrier must be reflected in its principal/agent relationship with the subcontractor.⁴

The comments are nearly unanimous in urging the Board not to impose burdensome reporting requirements, under § 293.4, and ATC recommends that the regulation contain a specific description of reports which the Board's orders will require. We think it inappropriate at this time to set forth a rigid format for reports, in the absence of experience with actual bush route reporting. However, Order 76-2-125, which we are issuing contemporaneously herewith, discloses our present thinking as to the types of reports which we regard as appropriate; and we believe that it also discloses our intention to avoid excessively burdensome reporting requirements.

ATC suggests that the rule be expanded and that additional standards be established concerning safety, pilot qualifications, and aircraft maintenance. All of these suggestions are rejected, since they relate to matters under the jurisdiction of the Federal Aviation Administration. We do, however, note that air taxi registration under Part 298 presupposes FAA certification.

ATC also suggests that Part 293 deal with the issues of competitive service, decertification of routes, and the imposition of ground service and frequency standards. Alaska Airlines urges that insurance requirements per passenger be specified in Part 293. We consider the issues of competitive service, decertification of routes, and ground service and frequency standards to be beyond the scope of the present rulemaking proceeding. Nor are we persuaded of any need to provide special insurance requirements for air taxi subcontractors, beyond those already applicable to them as air taxi operators covered by the insurance requirements set forth in Subpart F of Part 298.

4. Existing Agreements. Finally, several comments raise the question of whether existing subcontracts will be subject to this regulation. As indicated by Order 76-2-125, issued contemporaneously herewith, giving tentative approval to the existing subcontracts, we have determined that these agreements will not be subject to the prior-approval requirement of Part 293. They are, however, subject to the other provisions of the regulation.

5. Technical Changes. We have also made a technical change to the rule by adding a new section, § 293.5 "Exemption from Section 408(a) (5) of the Federal Aviation Act." The agreements between certificated route air carriers and air taxi parties providing Alaskan bush route air services, and in particular the principal/agent relationship set forth in § 293.3(e), necessarily involve some "control" of the air taxis by certificated car-

riers, within the meaning of Section 408(a) (5) of the Act. However, since there appears to be no evidence that these agreements create a monopoly, restrain competition, or jeopardize another carrier not a party to the transaction, we have no reason to find that they will not be consistent with the public interest. Furthermore, since each agreement will be individually filed and examined pursuant to Part 293, the Board finds that the independent filing otherwise required to obtain approval under Section 408(a) of the Act would unnecessarily deter formation or continuation of the agreements, subject the parties to unnecessary expense, and would not be in the public interest. The new section exempts agreements filed with and approved by the Board pursuant to Part 293 from the requirements of Section 408(a) (5) to the extent necessary for such agreements' implementation.

Finally, two typographical errors have been corrected in § 293.1 and in § 293.2(c).

Since the final rules adopted herein are procedural the Board finds that they may become effective immediately.

For the reasons hereinabove stated, the Civil Aeronautics Board hereby amends its Economic Regulations by adding a new Part 293 (14 CFR Part 293) effective February 27, 1976, as follows:

- Sec.
293.1 Applicability.
293.2 Procedural requirements.
293.3 Standards.
293.4 Reporting requirements.
293.5 Exemption from section 408(a) (5) of the Federal Aviation Act.

AUTHORITY: Secs. 204, 401, 407, 412, 416, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended), 766, 770, 771 and 788 (49 U.S.C. 1324, 1371, 1377, 1382, 1386 and 1481).

§ 293.1 Applicability.

This part sets forth the rules applicable to the processing of, and guidelines applicable to the approval of, section 412 subcontract agreements involving the operation of scheduled air services by an air taxi operator over Alaskan bush routes of a certificated air carrier.

§ 293.2 Procedural requirements.

An agreement submitted pursuant to this part shall be filed in accordance with the provisions of Subpart P of the Board's Rules of Practice in Economic Proceedings (14 CFR Part 302), and in accordance with the following additional provisions:

- A copy of every document subject to this part shall be filed with the Board's Alaska Regional Office.
- A copy of every document subject to this part shall be served upon the Alaska Transportation Commission.
- A copy of every document subject to this part, shall be served upon the chief executive of each city, town, or other unit of local government affected by the agreement.
- Contents of an application for prior Board approval of an agreement submitted pursuant to this part shall include economic and other factual data

specifically bearing on each of the criteria for approval prescribed in § 293.3 of this part.

§ 293.3 Standards.

Subcontract agreements filed pursuant to this part shall comply with the following standards:¹

(a) The air taxi party to the agreement must (1) be in compliance with all provisions of Part 298 as an air taxi operator within the definitions of that Part, and (2) have authority from the State of Alaska, or have pending before the State of Alaska a duly filed application for authority, to operate as a common carrier in scheduled services over the route(s) specified in the subject agreement.

(b) The agreement shall be of sufficient duration to justify the necessary investment in equipment and facilities by the air taxi party. Sufficient duration shall be deemed to be at least one year but may be any period of greater duration as the Board may find the public interest to require.

(c) The agreement shall provide that the air taxi party to the agreement be guaranteed sufficient compensation as may be necessary to support the sustained operation of a satisfactory level of service over the routes described in the agreement. Such compensation shall be determined on the basis of best estimates of both parties to the agreement, as evaluated and modified by the Board, of the projected financial results of operations performed pursuant to the agreement during the fiscal year periods for which the agreement will be effective. A detailed description of the method of projected amount of compensation must be included in the application for Board approval of the agreement.

(d) The agreement shall provide that the certificated air carrier party will provide backup support, including extra equipment in emergency situations in which the air taxi party is unable to meet the demands of the subject routes.

(e) The traveling public affected by the agreement shall be informed by appropriate and conspicuous notice that the air taxi party is operating as an agent of the certificated air carrier party and that the certificated air carrier party is responsible for the services rendered.

§ 293.4 Reporting requirements.

An air taxi party to an agreement approved pursuant to this part shall file, in addition to any reports which may be required under Part 298, such other reports (including detailed data of operating income and expenses in subcontracted operations) as may be prescribed in the Board's order approving such agreement.

§ 293.5 Exemption from section 408(a) (5) of the Federal Aviation Act.

An agreement filed with and approved by the Board pursuant to this part shall

¹ The standards listed are not intended to be all-inclusive. The Board remains free to disapprove an agreement as contrary to the public interest even if the agreement complies with these standards.

⁴ Since this relationship could amount to the kind of "control" prohibited by Section 408(a) (5) of the Federal Aviation Act, § 293.5, as discussed below, will contain an exemption from this section.

be exempt from the requirements of Section 408(a) (5) of the Federal Aviation Act to the extent necessary for the implementation of such agreement.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.
[FR Doc.76-6246 Filed 3-3-76;8:45 am]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Freedom of Information Regulations

Pursuant to the authority vested in me by 42 U.S.C. 2473, Subpart 4, § 1206.401 of Part 1206 of the National Aeronautics and Space Administration regulations are amended.

The purpose of this amendment is to delete the Michoud Assembly Facility as a NASA Information Center from which agency records may be requested because the George C. Marshall Space Flight Center Information Center, Huntsville, Alabama, handles all requests for information concerning the Michoud Assembly Facility.

Since this amendment is concerned only with a change in internal administrative responsibilities, notice and public procedure thereon is not required.

Subpart 4, § 1206.401 of Part 1206 of Title 14 of the Code of Federal Regulations is amended to read as follows:

§ 1206.401 Location of NASA information centers.

NASA will maintain the following Information Centers, at which agency records may be inspected, from which copies of agency records may be requested and at which copies of agency forms may be obtained:

(a) NASA Headquarters Information Center, National Aeronautics and Space Administration, Washington, DC 20546.

(b) NASA Information Center, Ames Research Center, Moffett Field, CA 94035.

(c) NASA Information Center, Flight Research Center, Post Office Box 273, Edwards, CA 93523.

(d) NASA Information Center, Goddard Space Flight Center, Greenbelt, MD 20771.

(e) NASA Information Center, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(f) NASA Information Center, Langley Research Center, Langley Station, Hampton, VA 23365.

(g) NASA Information Center, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

(h) NASA Information Center, Lyndon B. Johnson Space Center, Houston, TX 77058.

(i) NASA Information Center, George C. Marshall Space Flight Center, Huntsville, AL 35812.

(j) NASA Information Center, National Space Technology Laboratories, Bay St. Louis, MS 39520.

(k) NASA Information Center, Pasadena Office (JPL), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) NASA Information Center, Wallops Flight Center, Wallops Island, VA 23337.

Effective date: Subpart 4 shall become effective on March 4, 1976.

JAMES C. FLETCHER,
Administrator.

[FR Doc.76-6187 Filed 3-3-76;8:45 am]

Title 15—Commerce and Foreign Trade CHAPTER XX—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

PART 2002—OPERATION OF COMMITTEES

PART 2006—PROCEDURES FOR COMPLAINTS RECEIVED PURSUANT TO SECTION 301 OF THE TRADE ACT OF 1974

Miscellaneous Amendments

Notice is hereby given that under the authority of the Trade Act of 1974 (Pub. L. 93-618, 88 Stat., 1978) and E.O. 11846 (March 27, 1975), regulations pertaining to the Office of the Special Representative for Trade Negotiations are hereby amended. The Office of the Special Representative for Trade Negotiations considers these regulations to be procedural in nature and hence exempt from the requirements of 5 U.S.C. 553. Accordingly the amended regulations are final as published herein.

1. Part 2002, *Operation of Committees*, is hereby amended as follows:

Section 2002.1(b) is amended by inserting a new paragraph (6) to read as follows:

§ 2002.1 Trade Policy Committee Review Group.

(b) * * *

(6) When circumstances warrant, terminates section 301 reviews provided for in section 2002.3.

2. Part 2006, *Procedures for Complaints Received Pursuant to Section 301 of the Trade Act of 1974* is hereby amended as follows.

Section 2006.4 is hereby redesignated "2006.3" and a new 2006.4 is added to read as follows:

§ 2006.4 Termination of review.

(a) Whenever the Trade Policy Committee Review Group deems it appropriate, the review of complaints received under section 301 may be terminated.

(b) Termination of section 301 reviews shall be given effect by notification to the complainant and publication in *mination* and a statement of reasons for such termination.

CLAYTON K. YEUTTER,
Deputy Special Representative
for Trade Negotiations.

[FR Doc.76-6357 Filed 3-3-76;8:45 am]

Title 16—Commercial Practices CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1207—SAFETY STANDARDS FOR SWIMMING POOL SLIDES

Establishment of Standards

Correction

In FR Doc. 76-1183, appearing at page 2742 in the issue for Monday, January 19, 1976, make the following changes:

1. On page 2751, second column, subparagraph (3), the sixteenth line should read "short term. It is anticipated that the". . . .

2. On page 2753, in the third column, in paragraph (d), the third line should read "to add the slider in safely making the". . . .

3. On page 2758, in the second column, the third line from the top should read "shall be 10.4±0.1 feet (3.05 meters±)". . . .

4. On page 2763, in the second column below fig. W, in the small type, the third line which appears just above Fig. X, should read "palms of your hands forward and tilted up."

Title 20—Employees' Benefits CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

PART 405—HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart T—Health Maintenance Organizations

ENROLLMENT, AND GRIEVANCE AND APPEALS PROCEDURES UNDER MEDICARE

On March 17, 1975, there was published in the *FEDERAL REGISTER* (40 FR 12100) a notice of proposed rule making with proposed amendments to Regulations No. 5 (20 CFR Part 405) regarding procedures to be followed by health maintenance organizations (HMO's) in enrolling and disenrolling Medicare beneficiaries and handling grievances, complaints, and appeals of their enrollees who are Medicare beneficiaries.

Section 1876 of the Social Security Act (42 U.S.C. 1395mm), which was added to title XVIII by section 226 of P.L. 92-603, provides for Medicare to pay participating HMO's on the basis of an annual capitation rate for covered services that are furnished to enrolled Medicare beneficiaries. The law further provides, in section 1876(d), that every individual entitled to benefits under the hospital insurance and supplementary medical insurance programs or the supplementary medical insurance program only,

shall be eligible to enroll in any participating HMO which serves the geographic area in which the individual resides.

The requirements in the proposed regulations that HMO's and Medicare beneficiaries must meet in carrying out the enrollment and disenrollment processes were, primarily, to implement section 1876(e) of the Act which provides that an individual may enroll with an HMO or terminate such enrollment in the manner prescribed by regulations, section 1876(b) (9) of the Act which requires an HMO to hold an open-enrollment period at least once every year during which it accepts Medicare beneficiaries in the order in which they apply, and section 1876(b) (7) of the Act which requires that at least half of the enrolled members be individuals under age 65.

Under the proposed regulations an open-enrollment period of at least 30 consecutive days was required at least once during the HMO's contract year. In addition, the proposed regulations permitted the HMO to limit its enrollment only where: (1) It is filled to capacity; or (2) enrolling Medicare beneficiaries would cause the percentage of its members who are age 65 or older to exceed 50 percent or result in membership which would be substantially nonrepresentative of the population in its area; or (3) such an enrollment would cause the HMO to violate the qualifying conditions for HMO's (§§ 405.2001-405.2012 of Subpart T of Regulations No. 5, published as final regulations on July 2, 1975 (40 FR 28016); or (4) a denial of membership to a beneficiary is in accordance with a selection policy approved by the Secretary.

The proposed regulations allowed an HMO to initiate disenrollment of a Medicare beneficiary only in the following circumstances: (1) failure of the enrollee to pay the required premiums; (2) the enrollee's permanent move from the HMO's enrollment area; (3) the death of the enrollee; or (4) the termination of the enrollee's entitlement to benefits under the supplementary medical insurance program. The proposed regulations permitted a beneficiary to disenroll at any time, provided he gives formal notice to the HMO at least 30 days prior to the month in which he wishes disenrollment to take effect.

The proposed regulations also explained the benefits to which Medicare HMO enrollees are entitled pursuant to section 1876 of the Act, the extent to which the HMO and the beneficiary are liable for covered services which the beneficiary receives, the beneficiary's liability for payment of applicable deductibles and coinsurance, and the Medicare program's liability for making monthly capitation payments to an HMO upon the enrollment or disenrollment of a Medicare beneficiary. The proposed enrollment regulations, in addition, imposed certain requirements with respect to the marketing procedures which HMO's use in soliciting Medicare enrollees, and prohibited certain marketing practices, such as deceptive door-to-door solicitation.

The proposed regulations also implemented section 1876(f) of the Act, which provides for the establishment of appeals procedures for use by HMO's and their enrollees in initiating, addressing, and resolving disputes involving certain minimum monetary amounts. In addition, the proposed regulations set forth procedures for establishing an internal mechanism for handling HMO enrollees' grievances where no money amount is involved, as required by the conditions for HMO's (§§ 405.2001-405.2012 of Subpart T of Regulations No. 5).

In cases involving grievances other than those concerning Medicare benefits, the proposed regulations required the HMO to establish both initial and higher level grievance procedures, together with appropriate mechanisms to implement such procedures. Provision was also made for the use by the HMO of a grievance procedure, other than that described in the proposed regulations, where such an alternative approach is approved by the Secretary.

Also required by the proposed regulations was the establishment of an appeals procedure for the handling of matters involving emergency, urgently-needed, or other services obtained from non-HMO sources for which the beneficiary believes the HMO to be liable or involving services which the HMO had refused to provide or arrange for. This appeal procedure encompassed an initial determination, made by the HMO or an intermediary or carrier acting for the HMO, and a reconsideration, which must be requested by the beneficiary (or his representative) and which would be conducted by the Social Security Administration. Further, where the beneficiary was not satisfied, the proposed regulations permitted him to request a hearing within 6 months of the reconsideration if the amount in controversy is \$100 or more. Review beyond the hearing stage would be conducted in the same manner as other appeals under the Social Security programs, including civil action through the courts in disputes involving \$1,000 or more. The proposed regulations also stipulated the time periods during which determinations and decisions may be reopened.

Interested persons were given the opportunity to submit in writing on or before April 16, 1975, any data, views, or arguments on the Notice of Proposed Rule Making and proposed amendments. The comments and suggestions subsequently received, responses thereto, and changes made in the amendments as proposed are discussed below.

Comments were received from a number of sources (including representatives of national, State, and local organizations) interested in the procedures which an HMO must follow in enrolling and disenrolling Medicare beneficiaries and handling grievances, complaints, and appeals by their enrollees who are Medicare beneficiaries. All of the comments received on the proposed regulations have been carefully considered and many comments which suggested clarification of terms and greater specificity of lan-

guage have, wherever appropriate, been reflected in the regulations as set forth herein. Some comments could not be adopted, because they were contrary to requirements of the statute. Other comments which suggested clarification of certain items in guidelines have been accepted and will be taken into account in operating instructions which are being developed for use by HMO's under the Medicare program. Several other comments are not reflected in these amendments, because they suggested additional provisions that have been or will be dealt with under separate Notices of Proposed Rule Making covering proposed regulations relating to reimbursement of HMO's, and to the contract between an HMO and the Secretary.

Major changes made as a result of those comments which were accepted are as follows:

1. It was suggested, in view of time constraints, that marketing materials and changes in membership rules affecting Medicare beneficiaries should be deemed approved if the Social Security Administration does not notify the HMO to the contrary within 30 days of the receipt by the Social Security Administration of such materials or changes. Section 405.2023(c) (2) has been amended to provide that the HMO will be notified, within 30 days of the receipt by the Social Security Administration of such marketing materials or changes in membership rules, of the Social Security Administration's approval or disapproval of such materials or changes.

2. Several respondents questioned the adequacy of the time (within 30 days of the date of application) allotted the HMO to notify Medicare beneficiaries of acceptance (or rejection) for membership. A provision has been added, granting an extension of the 30-day time period where the HMO can demonstrate the necessity of such an extension to the satisfaction of the Secretary.

3. The time allotted the HMO to transmit information necessary to enable the Social Security Administration to record on the Social Security Administration's records the beneficiary's enrollment in the HMO (within 30 days from the date of a beneficiary's application or within 30 days after a vacancy appropriate for the applicant has occurred) was, likewise, not considered sufficient by several respondents. Provision has been made for granting an extension of the 30-day time period, where necessary.

4. In response to a suggestion that an HMO be permitted to disenroll for fraudulent practices on the part of a beneficiary, provision has been made to allow the HMO to disenroll a beneficiary who knowingly provides on the application form false information that the HMO relies upon and which materially affects his or her eligibility to enroll in the HMO, or a beneficiary who allows others to use his or her membership card to receive services from the HMO.

5. There were comments that the term "potential enrollee" was unclear. It has been deleted and the language of the

regulation has been changed to read "health insurance program beneficiaries who express interest in applying for membership".

6. One comment which was received stated that the requirement that a beneficiary's period of enrollment shall be for a specified length of time, but not less than 12 months would result in unnecessary and costly reenrollment. Clarifying language has been added to show that enrollment may be "on an indefinite basis" as well as for a specified length of time (but in no event less than 12 months).

7. It was suggested that the requirement on information to be disseminated to prospective enrollees was not sufficiently detailed. Accordingly, this section has been expanded to give examples of the data the HMO must furnish, such as the HMO's hours of operation and specific directions for obtaining service.

8. It was suggested that the requirement that each beneficiary (whether previously a member or not) must submit an application (which will be considered in chronological order) does not protect the right of continuous enrollment for previously enrolled persons who become eligible for Medicare benefits. This section has been changed to make clear that, although a Medicare beneficiary who is already a member of an HMO must complete and sign an application form, such beneficiary would continue as a member of the HMO and would not have to wait for a vacancy (to be processed in chronological order) as in the case of a beneficiary newly applying for membership.

9. It was suggested that the requirement that an HMO must newly enroll all eligible Medicare beneficiaries living inside its enrollment area (defined as the geographic area encompassing the permanent residences of its enrollees) was too strict and should be revised. A number of prepayment plans which generally enroll individuals residing in their service area permit such individuals who move and establish a permanent residence outside the service area to retain their membership in the plan. The comment pointed out, however, that to require an HMO to enroll and make suitable arrangements for the care of all eligible applicants who live in the areas to which such enrolled individuals move would impose an excessive burden on the HMO. This requirement has been modified so that, if an enrollee moves permanently to an area outside of the HMO's service or enrollment areas and retains his membership, the HMO's enrollment area will not be automatically expanded to encompass the geographic area of the enrollee's new permanent residence. Further, the eligibility of Medicare beneficiaries living outside the service area of an HMO to enroll in the HMO has been more clearly defined by relating it to the availability of covered Medicare services provided by the HMO.

10. Another comment requested that the regulations be clarified to indicate that the mandated grievance procedures apply only to Medicare beneficiaries. This

has been done, but the HMO may, of course, utilize such procedures for all of its enrollees if it so desires.

11. Section 405.2071 (redesignated § 405.2057) has been amended, in response to a number of comments, to indicate the minimum conditions which an HMO's grievance procedure must meet if the HMO chooses to submit to the Secretary a proposal to utilize an alternative procedure, i.e., one differing from the procedure set forth in that section. It has also been amended to remove the requirement that an HMO's medical staff be represented on the higher grievance committee, to require that enrollees constitute at least one-third of such committee, and to clarify that the enrollees on the committee do not have to be Medicare beneficiaries.

12. In response to a comment, section 405.2073 (now section 405.2059) has been revised to state that the reconsideration determination will explain in detail the basis for the decision.

Major comments not accepted are summarized as follows:

1. It was suggested that an HMO should not be required to enroll Medicare beneficiaries who are entitled only to Part B items and services. While the basis for the objection raised, i.e., that HMO's furnish a full range of medical and institutional services, is understandable, this suggestion was not adopted since sections 1876 (a), (c), and (d) of the Social Security Act permit such individuals to enroll.

2. It was suggested that the "supplemental benefit plan" (by which HMO's may offer to provide coverage for items and services which the HMO furnishes, but which are not covered under Medicare) be mandatory for the HMO's enrollees who are Medicare beneficiaries. This comment was rejected, because section 1876(g) (2) of the Act provides, in essence, that coverage of such additional services must be optional.

3. Several organizations suggested that the enrollment forecast be submitted 30 days, instead of 90 days, prior to the beginning of the contract year. This proposal was rejected, because the 90-day requirement is imposed by the statute (section 1876(a) (2)).

4. Several commenters suggested that all door-to-door solicitation be prohibited. Blanket prohibition of door-to-door solicitation might unnecessarily deprive certain organizations, especially developing HMO's of a marketing approach which could be valuable and appropriate to their circumstance. However, in recognition of the potential for abuse that such a practice might engender, the prohibition against deceptive door-to-door solicitation (e.g., the making of false or misleading statements or the use of non-approved marketing materials) has been retained in the amendments.

5. Several HMO's objected to the requirement that they publicize their open-enrollment period. While the Department appreciates the concern over the use of paid advertising and certain other forms of solicitation noted by those who made this comment, it was concluded that the statutory requirement mandating open

enrollment (section 1876(b) (9)) would likely be rendered ineffective if the public were not informed of open-enrollment periods. However, in view of possible misunderstanding created by the term "publicize," the amendment has been revised to require the HMO to "notify" the public of its open-enrollment periods in an acceptable manner.

6. It was suggested that a risk-basis HMO not be required to assume financial responsibility for emergency and urgently needed services provided outside of the HMO's area. This comment was rejected because section 1876(c) (1) (B) of the Social Security Act requires a risk-basis HMO to assume financial responsibility for such services.

7. A comment was received, suggesting that HMO's not be permitted to set aside vacancies to cover anticipated increases in group enrollments. The comment was not accepted, because it is expected that this special rule for group contracts will help promote increased access by Medicare beneficiaries to HMO's, especially where an HMO's financial viability and existence are dependent to a large extent upon its group contracts. Further, under the amendments, an HMO may defer holding an open-enrollment period until after the HMO has met its group-contract obligations. It should also be stressed that this setting aside of vacancies is subject to prior approval by the Secretary. The Secretary will review carefully the request for such approval, to assure that there is a legitimate basis for permitting a setting aside of vacancies, that the number set aside is reasonable, and that there will, nevertheless, be a reasonable number of vacancies remaining to be available for Medicare beneficiaries. A minor change was made in the amendments to make it clear that, during the open-enrollment period, vacancies could be filled with non-Medicare individuals as well as Medicare beneficiaries.

8. The suggestion was made that an HMO be permitted to limit enrollment of Medicare beneficiaries unless the proportion of its members who are Medicare beneficiaries falls 10 percent below the proportion of Medicare beneficiaries in the enrollment area. This suggestion was not adopted, because it is contrary to the intent of Congress as set forth in the Senate Finance Committee's report on H.R. 1, which states, " * * * the committee would also permit the HMO to limit acceptance of applicants from any particular age group to prevent its membership from becoming substantially nonrepresentative of the geographic area which it serves. Generally, a subgroup of enrollees would not be considered to be nonrepresentative unless its proportion among all enrollees exceeds by at least 10 percent its proportion in the general population in the area. * * * " The amendments to the regulations reflect the intent of Congress as expressed above.

9. It was suggested that an HMO should have the authority to disenroll beneficiaries where a satisfactory physician-patient relationship cannot be

maintained. While recognizing the basis for such comment and the possible disruptive influence that a poor physician-patient relationship could create, this suggestion has not been adopted. Where a problem arises in the relationship between a patient and a physician in the HMO setting, the HMO should usually be in a position to deal with this type of problem through other means (e.g., referring to another physician or counseling the patient). Further, the law does not provide for the appeal of such an issue to the Secretary (although it could be heard as a grievance), and it is doubtful that the beneficiary could be adequately protected, especially from unfair or capricious treatment, in the absence of such an appeal right.

10. Since a health insurance program beneficiary may disenroll at any time, it was suggested that a minimum contracting period of 6 months should be established to prevent a potential fiscal liability to the HMO which could occur if an enrollee terminated membership soon after receiving the initial physical workup (often a very expensive service). Since section 1862(a) of the Social Security Act prohibits payment by the Medicare program for routine physical checkups, the beneficiary would be liable for such services. Under this circumstance, it would not be to the advantage of a Medicare beneficiary to enroll in an HMO with the purpose of disenrolling soon after receiving the initial physical examination. Accordingly, this comment has not been accepted.

11. One comment questioned the authority of the Secretary to require an HMO to institute a grievance procedure under section 1876(f) of the Social Security Act. That requirement is based on the legislative history and on section 1876(i)(6)(C) of the Act, which provides that each contract between the Secretary and an HMO "shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary."

12. A number of comments objected to various specific procedures of features of the grievance process in section 405.2071 (now section 405.2057). Section 405.2057 also includes a provision under which an HMO may submit an alternative process for the Secretary's approval. Where local conditions make the provisions of § 405.2057(a)-(c) impractical, the submission of alternative procedures is encouraged.

13. An objection was filed to the requirement that oral complaints be noted and processed under the grievance procedure. A related comment was received, requesting that it be made clear that an enrollee who has a complaint bears the responsibility for initiating the grievance. We believe that the grievance procedure should be easily accessible and that its use is to be encouraged, and thus there should be as few restrictions on its use as possible.

14. One person who commented requested that enrollees be barred from the higher grievance committee, because it would be difficult to find enrollees

capable of hearing such grievances. We believe that the vast majority of grievances will not be so technical as to be beyond the capabilities of enrollees. Where the issues are extremely complex or technical, the HMO may present expert evidence to the committee, or the committee may refer the problem to the HMO board of directors.

15. One comment requested that a time limit be established within which an appeal from an initial grievance must be taken. We do not believe that it would be appropriate to establish by regulation such a limit for an internal HMO procedure.

16. There were a number of comments suggesting that issues subject to the grievance procedure be enumerated; that extensive written descriptions of the grievance procedure, the past utilization of the procedure and various other items involving the procedure be made generally available and disseminated to prospective enrollees; that an enrollee representative with support staff be appointed by the HMO; and that the 2-month time limitation for the grievance committee to report results of a grievance be shortened. While these would generally be commendable features of a grievance procedure, they could be extremely expensive or impractical, and might, in any event, amount to overregulation.

17. One comment requested that a procedure be established under which enrollees could challenge an HMO's compliance with the "Qualifying Conditions" in §§ 405.2002-405.2012 in a public hearing before the Secretary. Inasmuch as the Secretary will be periodically reviewing the performance and compliance of each HMO and would, of course, investigate any allegation of noncompliance, and because there is no statutory authority or legislative intent on which to base such a right to a hearing under these provisions, no action was taken on this comment.

18. A request was made that the reconsideration procedure be eliminated on the grounds that the requirement that the amount in controversy must be at least \$100, which requirement was mandated by statute for a hearing before the Secretary, was intended to eliminate trivial considerations. That requirement is related to a similar provision in section 1869 of the Social Security Act. The reconsideration process is an administrative appeal which has been used in all benefit programs administered by the Social Security Administration in order to take a second look at the initial decision on a more informal basis than is required at the statutory hearing. Also, we believe it is necessary to provide some avenue of appeal on claims involving less than \$100.

19. One person who commented asked that the amount in controversy for judicial review be established by regulation as that amount in controversy after the initial determination, rather than that amount in controversy after Appeals Council review. This change would be inappropriate inasmuch as the initial de-

termination, the Administrative Law Judge's decision, and the Appeals Council review determination each constitute a final decision of the Secretary unless reopened or appealed. In the event that less than \$1,000 is in controversy after Appeals Council review, the Appeals Council review determination is, nevertheless, the decision of the Secretary. The Social Security Act provides for judicial review of the Secretary's determination only when \$1,000 or more is in controversy. No judicial review can be made available where less than \$1,000 is in controversy unless there is a change in the statute. Thus, this comment cannot be accepted.

Additional comments not accepted related to a requested change in the reconsideration process which would shorten the time limit for requesting a reconsideration and would substitute the appeal process established by an HMO in compliance with the Employee Retirement Income Security Act of 1974 (ERISA) for the reconsideration process established by section 405.2073 (now section 405.2059). The time limit for requesting a hearing is set by the Social Security Act at a minimum of 6 months and may not be shortened. The 6-month period established by these regulations during which a reconsideration may be requested is consistent with other appeals provisions of the Medicare program. After consideration, we do not believe that any significant purpose would be served by reducing such period, but believe that such a reduction would have the disadvantage of causing inconsistency with other Medicare regulations. The Social Security Administration cannot abdicate its responsibility for assuring that beneficiary appeal rights are protected by accepting alternative procedures which may not meet its minimum standards. If the procedures established by the HMO in response to ERISA comply at least with the standards set forth in section 405.2056 and sections thereafter, there would be no objection to using such a procedure for Medicare beneficiaries who are enrollees.

A number of minor changes have been made as a result of other comments. These are mostly of a clarifying nature:

1. Section 405.2025 has been amended to make it clear that the issue of an enrollee's right to dispute his disenrollment is subject to the HMO's grievance procedure, and is not an initial determination from which appeal rights flow.

2. Sections 405.2071 and 405.2072 (now sections 405.2057 and 405.2058) have been amended to show that reimbursement for items or services other than those for which Medicare may make payment, but for which a beneficiary has contracted with the HMO and which the beneficiary agrees are not covered services under Medicare, is not an appealable issue where the HMO declines to provide or reimburse for them. Disputes involving such items or services are subject to the HMO's grievance procedures. If the beneficiary believes that the contracted-for services are covered by Medicare, he or she may appeal as provided for in sec-

tions 405.2059-405.2062 of these regulations.

3. Section 405.2072 (now section 405.2058) has been expanded to Provide that a failure by an HMO to make a determination on a request by an enrollee for items or services for which Medicare reimbursement may be made, or for reimbursement for such items or services within 60 days after the request, shall constitute an adverse initial determination. Without this provision, an HMO could indefinitely fail to provide, or reimburse for, the items or services and the enrollee would have no right to appeal.

To the extent possible, these amendments are consistent with the provisions of the Health Maintenance Organization Act of 1973 (P. L. 93-222) and the regulations in 42 CFR Part 110 issued by the Public Health Service (PHS) to implement that act, published in the Federal Register on October 18, 1974. These amendments are also consistent with regulations on HMO's issued by the Social and Rehabilitation Service (published in the Federal Register on May 9, 1975).

The amendments as announced under the Notice of Proposed Rule Making (40 FR 12100) are, therefore, adopted with the changes noted and various editorial changes made in the interest of clarity.

Additional regulations dealing with HMO's and section 1876 of the Social Security Act have been or are being prepared and have been or will be published under separate Notices of Proposed Rule Making. Such proposed regulations cover such topics as reimbursement of HMO's and the HMO's contract with the Secretary.

(Secs. 1102, 1871 and 1876 of the Social Security Act, 49 Stat. 647 as amended, 79 Stat. 331, 86 Stat. 1396; (42 U.S.C. 1302, 1395hh, 1395mm).)

Effective date. These amendments shall be effective April 5, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.800—Health Insurance for the Aged—Hospital Insurance; No. 13.801—Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: December 20, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: February 23, 1976.

MARJORIE LYNCH,
Acting Secretary of Health,
Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. The table of sections for Subpart T is amended by adding the following numbers and headings:

Sec.	
405.2020	HMO enrollment.
405.2021	Health insurance program beneficiary's entitlement to items and services.
405.2022	Liability of a health insurance program beneficiary enrolled in an HMO.
405.2023	Enrollment procedures.
405.2024	Membership rules.
405.2025	Disenrollment.

Sec.	
405.2056	Beneficiary grievances and appeals.
405.2057	Grievance procedure.
405.2058	Initial determinations.
405.2059	Appeals: Reconsideration.
405.2060	Appeals: Hearing.
405.2061	Appeals Council review.
405.2062	Court review.
405.2063	Time period for reopening initial, revised, or reconsideration determinations and decisions or revised decisions of an administrative law judge or the Appeals Council.

2. Subpart T is amended by adding §§ 405.2020-405.2025 and §§ 405.2056-405.2063, reading as follows:

§ 405.2020 HMO enrollment.

(a) *General.* An individual may elect to receive through an HMO, services that are covered under the hospital insurance program and supplementary medical insurance program if he is entitled under both programs, or under the supplementary medical insurance program if he is entitled only under that program. He may receive such services through an HMO by enrolling in an HMO that has contracted with the Secretary (see §§ 405.2002-405.2012 for the qualifying conditions which HMO's must meet and paragraph (b) of this section for the requirements to be met by prospective enrollees). Payments for health insurance program beneficiaries who have enrolled in such an HMO will be made out of the Federal Hospital Insurance Trust Fund and/or the Federal Supplementary Medical Insurance Trust Fund, as appropriate. Such payments will be made to the HMO on behalf of such individuals, and will discharge such individuals from the liability to pay for the covered services furnished to them by the HMO. The HMO may require payment, in the form of premiums or otherwise, from such individuals for services not covered under the health insurance programs, as well as deductibles and coinsurance amounts attributable to covered services (see § 405.2022(b)). Enrollees of HMO's which have entered into a risk-basis contract with the Secretary are also liable for services received from sources other than the HMO, unless covered through the HMO pursuant to this subpart (see §§ 405.2021 (a) and (b) and 405.2022 (c)).

(b) *Eligibility to enroll in an HMO.* An HMO shall enroll, either on an indefinite basis or for a specified length of time, but not less than 12 months, any individual:

(1) Who is enrolled in the supplementary medical insurance program and is entitled to benefits under the hospital insurance program or is enrolled in the supplementary medical insurance program only;

(2) Who lives within the HMO's service area (see § 405.2005(a)) or a location outside its service area that is within its enrollment area (see § 405.2005(a)) in which the services the HMO is required to furnish health insurance program beneficiaries pursuant to § 405.2005(a) (1) or (b), as the case may be, are available to the beneficiary through the HMO;

(3) Who is not enrolled pursuant to this subpart in any other HMO which

has entered into a contract with the Secretary;

(4) Who, during an enrollment period of the HMO, completes and signs the application form used by such organization to enroll members and gives such information as may be required for enrollment;

(5) Who agrees to abide by the rules of the HMO after such rules are disclosed to the beneficiary in connection with the enrollment process;

(6) Who is not denied enrollment by the HMO (pursuant to the HMO's written selection policy, which has been approved by the Secretary in accordance with paragraph (c) of this section);

(7) Whose acceptance would not (i) cause the number of the HMO's members who are age 65 or older to exceed 50 percent of its enrolled members, or (ii) result in the HMO's failure to comply with any other qualifying condition set forth in §§ 405.2002-405.2012, or (iii) require such HMO to exceed its enrollment capacity (see § 405.2023(b)).

(c) *Selection policies.* (1) An HMO's selection policies with respect to health insurance program beneficiaries will be approved by the Secretary only (i) if the HMO has demonstrated to the satisfaction of the Secretary that applicants for enrollment who meet the requirements in paragraph (b) (1) through (5) of this section are rejected solely to prevent its membership from becoming substantially nonrepresentative of the population in its enrollment area, or (ii) if the HMO can demonstrate, that enrollment of an individual or individuals otherwise eligible to enroll would cause it to be unable to provide needed health services to its enrollees; or (iii) if the HMO has demonstrated to the satisfaction of the Secretary that it would be compelled to enroll a number of individuals which would exceed its capacity or cause it to otherwise not be able to comply with the requirements of paragraph (b) of this section; or (iv) in the case of a risk-basis HMO (see § 405.2001(b)), if such an HMO has demonstrated to the satisfaction of the Secretary by means of statistical and actuarial data, including pertinent financial and enrollment information, that otherwise it would be compelled to enroll an individual or individuals who would pose an immediate threat to the HMO's financial viability. (2) Where a risk-basis HMO employs a selection policy which rejects individuals who would pose an immediate threat to the HMO's financial viability (see paragraph (c) (1) (iv) of this section), it must seek approval by the Secretary in advance and approval, if granted, shall be for a period not to exceed one full contract year. Approval for subsequent contract years may also be made, subject to renewed demonstration by the risk-basis HMO of the continued necessity for such a selection policy. (3) A subgroup of enrollees will generally not be considered to make the membership substantially nonrepresentative unless its proportion among all the HMO's enrollees exceeds by at least 10 percentage points its proportion in the general population in the enrollment

area, based on such census and other data as the Secretary finds appropriate. The HMO may accept enrollment from a particular group that exceeds its proportion in the population by more than 10 percentage points provided that such enrollment permits its enrollment of health insurance program beneficiaries in numbers sufficient to meet the requirements of § 405.2004.

(d) *Conversion of HMO enrollees newly entitled to health insurance program benefits.* (1) (i) The HMO must accept as an enrollee any beneficiary who was an enrolled member of the HMO as of the month immediately before the month in which such beneficiary (a) attained age 65, or (b) became entitled to health insurance program benefits on the basis of chronic renal disease, or (c) became entitled to his 25th consecutive monthly disability benefit. (ii) While such a beneficiary must sign an application form containing the information required pursuant to § 405.2023(f)(1), unless § 405.2025 applies the HMO must continue his enrollment. (see also paragraph (e) of this section and § 405.2023(e)(2).)

(2) The HMO must make every effort to forward the information required pursuant to § 405.2023(f)(1) for such an individual to the Social Security Administration (i) at least 90 days prior to such individual's attainment of age 65 or such individual's 25th consecutive month of entitlement to disability benefits, or (ii) in the case of those individuals requiring treatment for end-stage renal disease, within 30 days immediately following the initiation of a course of renal dialysis, or on or before the day on which the individual enters a hospital in preparation for, and in anticipation of, a kidney transplant.

(e) *Reenrollment.* Where an HMO requires periodic reenrollment, it must reenroll health insurance program beneficiaries, unless disenrollment is warranted pursuant to the provisions of § 405.2025.

§ 405.2021 Health insurance program beneficiary's entitlement to items and services.

(a) *Individual entitled to benefits under the hospital insurance program and the supplementary medical insurance program—(1) Entitlement to items and services.* An individual who is entitled to benefits under the hospital insurance program and the supplementary medical insurance program and who is enrolled in an HMO with which the Secretary has entered into a contract pursuant to section 1876(i) of the Act, as amended, shall, subject to the conditions, exclusions, and limitations described in this part, be entitled to receive through the HMO all items and services, under both Parts A and B of title XVIII of the Act, which the individual needs and which are provided by such organization, either directly or through arrangements with others, for any month for which a per capita payment is made under the hospital insurance program and the supplementary medical insurance program, or any month for which he was entitled to have

such a payment made to the HMO, in accordance with the requirements of this subpart.

(2) *Entitlement to reasonable payment.* Such an individual shall also be entitled to have reasonable payment timely made by an HMO to him or on his behalf, for title XVIII items and services he obtains from a physician, supplier, or provider of services outside the HMO where such benefits are:

(i) Emergency items and services (as defined in § 405.2005(a)(3)(i)) or urgently-needed services (as defined in § 405.2005(a)(3)(ii)) for which the HMO has assumed financial responsibility; or

(ii) Covered items and services which, in accordance with section 1876(f) of the Act, it is determined that the beneficiary was entitled to have furnished to him.

(b) *Beneficiary is enrolled in the supplementary medical insurance program but is not entitled to benefits under the hospital insurance program.* An individual who is enrolled in the supplementary medical insurance program, but is not entitled to benefits under the hospital insurance program, and is enrolled in an HMO with which the Secretary has entered into a contract pursuant to section 1876(i) of the Act, shall be entitled to receive, and have payment made for, benefits as provided for in paragraph (a) of this section, but only with respect to items and services which are covered under the supplementary medical insurance program (described in Subpart B of this part).

(c) *Effective date of coverage.* (1) The liability of the health insurance program to make per capita payments to the HMO on behalf of the beneficiary shall begin with the first day of the month in which he is a member of the HMO, and he is entitled to health insurance program benefits as shown on the records of the Social Security Administration. In no case will such month be earlier than the month immediately following, or later than the third month following, the month in which the information regarding the beneficiary, required pursuant to § 405.2023(f)(1) is received in acceptable form by the Social Security Administration, except where one of the following is met:

(i) The Secretary approves a later month which has been requested by the HMO and the beneficiary.

(ii) An individual enrolls in the supplementary medical insurance program pursuant to § 405.212 but applies to an HMO prior to the month in which he is to become entitled to benefits under the supplementary medical insurance program, or is a member of the HMO prior to his entitlement to health insurance program benefits (see § 405.2020(d)). In that event, the effective month of membership as an enrollee of the HMO and health insurance program beneficiary shall, except as otherwise provided in this paragraph, be the first month for which he becomes entitled to benefits under the supplementary medical insurance program.

(2) The Social Security Administration shall promptly advise the HMO of

the month for which the liability of the health insurance program becomes effective for each health insurance program beneficiary who is added to its records as an enrollee of the HMO.

§ 405.2022 Liability of a health insurance program beneficiary enrolled in an HMO.

(a) *Items and Services not covered under the hospital insurance program or the supplementary medical insurance program.* (1) The enrollee is liable for payment for all items and services not covered under the hospital insurance program and the supplementary medical insurance program. Where the enrollee is entitled to benefits under only the supplementary medical insurance program, he is liable for payment for all items and services covered under the hospital insurance program, as well as for items and services not covered under the supplementary medical insurance program. The HMO may offer to its enrollees who are health insurance program beneficiaries, coverage of such items and services as part of a supplemental benefit plan. Coverage of such items and services (excluding deductible and coinsurance amounts required under paragraph (b) of this section) under such supplemental benefit plans must be optional for health insurance program beneficiaries.

(2) If the supplemental plan premium includes charges for items and services in addition to all or part of the deductible and coinsurance amounts, the portions of the premium amount applicable to deductible and coinsurance amounts must be computed separately from the charges for other items and services, and the amounts so computed must be disclosed to the beneficiary prior to the beneficiary's selection of coverage options and application for membership.

(3) The HMO must give written notice to all enrollees who are health insurance program beneficiaries of any proposed change in supplemental benefit plan premium rates at least 30 days prior to the effective date of such change.

(b) *Deductibles and coinsurance for covered HMO items and services.* The enrollee, or someone representing the enrollee, shall be generally responsible for satisfying the deductible and coinsurance amounts applicable to items and services covered under the hospital insurance program as described in §§ 405.113-405.115, 405.123, and 405.124, and the supplementary medical insurance program, as described in §§ 405.240, 405.243, 405.245, and 405.246. (Where enrollees are eligible, payment for noncovered services, deductibles, and coinsurance may be satisfied under the provisions of section 1843 of the Act.) The requirements for deductibles and coinsurance shall be satisfied by payment to the HMO by the enrollee, or by someone on his behalf such as under a State buy-in agreement, of equivalent amounts which do not exceed the actuarial value of the deductible and coinsurance for which its enrollees who are health insurance program beneficiaries otherwise would have been liable had they not en-

rolled in an HMO. The payment of such amounts may be made as a premium, membership fee, charge per unit, or similar charge (or as a portion thereof where such a charge represents prepayment for noncovered services).

(c) *Special rules regarding liability of enrollees of risk-basis HMO's.* (1) Except as otherwise provided in paragraph (c) (2) of this section, a health insurance program beneficiary who enrolls in an HMO which has entered into a risk-basis contract with the Secretary (see § 405.2001(b) (3)) may not have payments made to him or on his behalf by the health insurance program for any services he receives, which are not provided directly or through arrangements by the risk-basis HMO, except for services described in § 405.2021(a) (2). This restriction shall cease to apply to a beneficiary who is disenrolled from a risk-basis HMO pursuant to § 405.2025, effective with the month in which the liability of the health insurance program to make monthly capitation payments to the HMO in his behalf ceases, except that where the beneficiary moves out of the HMO's enrollment area, such restriction shall cease to apply effective with the month immediately following the month in which he moves.

(2) A health insurance program beneficiary who, prior to July 1, 1973, was enrolled in an HMO which has entered into a risk-basis contract with the Secretary, and who would otherwise be subject to the restriction set forth in paragraph (c) (1) of this section may elect to be exempted from such restriction, but only with respect to items and services which are furnished prior to July 1, 1976.

(3) Health insurance program beneficiaries who are enrolled in cost-basis HMO's (see § 405.2001(b) (2) and (3)) are exempt from the restriction set forth in paragraph (c) (1) of this section.

§ 405.2023 Enrollment procedures.

(a) Open enrollment period required.

(1) An HMO shall hold an open enrollment period at least once during its contract year. During such open enrollment period an HMO will enroll health insurance program beneficiaries who meet the eligibility requirements of § 405.2020(b) in the order in which their applications are received until such HMO is enrolled to the limits of its capacity, as defined in paragraph (b) of this section.

(2) The open enrollment period must be no less than 30 consecutive days. Continuously open enrollment throughout the year shall satisfy this requirement.

(b) *Enrollment capacity.* (1) The HMO's capacity to accept new enrollees shall be determined on the basis of the HMO's annual enrollment forecast, together with any adjustments based on the expansion of the HMO's facilities or staff since the forecast was made. The annual enrollment forecast should, to the extent feasible, reflect:

(i) A reasonable relationship between the total number of anticipated enrollees, their anticipated health needs, and the HMO's anticipated ability to provide the required health services;

(ii) Anticipated number of individual enrollments and group enrollments;

(iii) Actual or anticipated expansion of the ability to provide health services, such as increases in staff and facilities;

(iv) Other reasonable and relevant factors such as the HMO's past enrollment experience.

(2) The enrollment forecast shall be submitted to the Social Security Administration no later than 90 days before the beginning of each contract year and in such form as the Social Security Administration shall prescribe. The HMO shall promptly notify the Social Security Administration in writing, of any changes in its capacity.

(3) Subject to the approval of the Secretary, the HMO may set aside a reasonable number of vacancies during a contract year to take care of contemplated needs from a group contract provided that the enrollment period under such group contract is to take place during the contract year and that any such vacancies which are set aside and are not filled within a reasonable period of time following the commencement of the enrollment period for the group contract are made available to health insurance program beneficiaries as well as other non-group applicants pursuant to the requirements of this subpart.

(c) *Required marketing activities.* In offering its plan to health insurance program beneficiaries, the HMO shall:

(1) Provide health insurance program beneficiaries who express interest in applying for membership with the HMO's rules and regulations regarding membership and an adequate written description of:

(i) The HMO's basic benefit package for health insurance program beneficiaries and any supplemental benefit packages that are available, including the amounts of the premiums, if any, for such benefit packages;

(ii) The liability of an enrollee who is a health insurance program beneficiary, for deductible and coinsurance amounts, noncovered services, and out-of-plan services;

(iii) Enrollment eligibility and procedures; and

(iv) Such other information including hours of operation, clinic locations, and directions for obtaining service, as may be necessary in order for the beneficiary to make an informed decision on whether to enroll in the HMO;

(2) Submit all brochures, applications, and promotional and informational material which deal with enrollment of health insurance program beneficiaries with the HMO, to the Social Security Administration for approval prior to issuance; (The HMO shall be notified, within 30 days of the receipt of such materials by the Social Security Administration, as to whether they have been approved or disapproved by the Social Security Administration.); and

(3) Notify the general public of its enrollment periods, whether they are for a limited duration or continuous, in an appropriate manner in appropriate media throughout its enrollment area.

(d) *Proscribed marketing activities.* The HMO may not engage in any of the following activities in marketing its plan to health insurance program beneficiaries:

(1) Practices which are discriminatory or unethical in nature;

(2) Activities which would mislead, misinform, confuse, or defraud health insurance program beneficiaries, or misrepresent the HMO, its marketing representatives, or the Social Security Administration, such as claims that the HMO is recommended or endorsed by the Social Security Administration (other than that the organization is approved as an HMO for purposes of participation in the health insurance program, and that the organization is qualified as an HMO under the Health Maintenance Organization Act of 1973 (P.L. 93-222) or under title XIX of the Social Security Act, where appropriate), or claims that the Social Security Administration recommends that the beneficiary enroll in the HMO or deceptive door-to-door solicitation;

(3) Offers of gifts or payment as an inducement to enroll in the HMO (this does not proscribe the explanation of any legitimate benefits the beneficiary might obtain as an HMO enrollee, such as eligibility to enroll in a supplemental benefit plan which covers such items as deductibles and coinsurance, preventive services, etc.); and

(4) Promises, claims, or other statements, written or oral, which conflict with, materially alter, or erroneously expand upon the information contained in the marketing materials approved by the Secretary.

(e) *Application system.* The HMO shall have an effective system for receiving, controlling, and processing applications for membership from health insurance program beneficiaries under which:

(1) Each beneficiary (whether previously a member of the organization or not) who wishes to enroll in the HMO signs an application form, dated at the time the HMO receives the application from the beneficiary.

(2) Applications from beneficiaries are accepted in chronological order by date of application (except as provided in § 405.2020(d)), subject to restrictions permitted by § 405.2020(c). (The date of application is the date on which the HMO receives the application from the beneficiary.)

(3) The beneficiary is notified by the HMO of its acceptance or denial of his application: (i) not later than 30 days following the application date; or (ii) more than 30 days, and less than 61 days, following the application date if such HMO demonstrates to the satisfaction of the Secretary that more than 30 days is required for such purpose and is given approval by the Secretary to notify such beneficiary later than 30 days.

(4) Such notice is made as follows:

(i) If the application is accepted, the beneficiary is notified of the date upon which the HMO will request that his enrollment be effective, or

(ii) If the application is accepted, but the HMO is enrolled to capacity, the

beneficiary is notified of procedures to be followed as vacancies occur, or

(iii) If the application is denied, an explanation of the reason for denial is given to the beneficiary.

(5) The HMO transmits to the Social Security Administration the information necessary to add the beneficiary to the HMO on the Social Security Administration's records: (i) within 30 days of the date of application, or (ii) in the case of applications which are accepted when the HMO is enrolled to capacity, within 30 days after a vacancy for the applicant has occurred; or (iii) where the HMO demonstrates to the satisfaction of the Secretary that it requires more than 30 days to process and transmit the necessary information to the Social Security Administration, within such additional period of time which the Secretary grants for such purpose.

(6) The beneficiary is promptly informed in writing by the HMO of the effective month of his membership as an enrollee and a health insurance program beneficiary following notice to the HMO by the Social Security Administration pursuant to § 405.2021(c)(2).

(7) If the HMO accepts applications when it is filled to capacity, its procedures for processing and controlling such applications from health insurance program beneficiaries assure that vacancies that occur for such applicants who are still eligible to enroll are filled in chronological order by date of application, except where to do so would result in the HMO's failure to comply with the qualifying conditions set forth in §§ 405.2002-405.2012.

(f) *Application form.* (1) The application form must be in such format and contain such information as the Social Security Administration may specify, including the beneficiary's authorization for disclosure and exchange of necessary information between the HMO and the Social Security Administration.

(2) Application forms shall be filed and retained as long as the Secretary may prescribe.

§ 405.2024 Membership rules.

(a) The HMO shall maintain written rules regarding membership which are reasonable and which do not conflict with the requirements and limitations imposed by this subpart. Such rules and regulations shall deal with, but need not be limited to, procedures for paying premiums and other charges for which enrollees who are health insurance program beneficiaries may be liable, grievance and appeal procedures, disenrollment rights, how and where to obtain services from or through the HMO, and such other matters as the Secretary may prescribe.

(b) A copy of such written membership rules shall be furnished each enrollee who is a health insurance program beneficiary (see § 405.2023(c)(1)).

(c) Any change in the membership rules affecting enrollees who are health insurance program beneficiaries must first be approved by the Social Security Administration and must be communicated in writing to all such enrollees of

the HMO no later than 30 days prior to the effective date of the change. The HMO shall be notified, within 30 days of the receipt of such proposed change(s) by the Social Security Administration, as to whether the change(s) has been approved or disapproved by the Social Security Administration.

§ 405.2025 Disenrollment.

(a) *HMO disenrollment of health insurance program beneficiaries.* An HMO may not request or encourage, by written or oral communication or by any action or inaction, a health insurance program beneficiary to disenroll, other than under the following circumstances:

(1) *Enrollee fails to pay premiums.*

(i) An enrollee who is a health insurance program beneficiary and who fails to pay, pursuant to the HMO's written membership rules, the premiums or other charges imposed by the HMO for deductible and coinsurance amounts for which the enrollee is liable pursuant to § 405.2022(b) may be disenrolled by the HMO provided that the HMO can demonstrate to the Secretary that it made reasonable efforts to collect the unpaid amount and gives written notice of termination of enrollment. Such notice shall be mailed to the enrollee prior to the submission of the disenrollment notice to the Social Security Administration. Such notice shall include an explanation of the enrollee's right to have any such disenrollment matter heard under the grievance procedures established pursuant to § 405.2057.

(ii) The liability of the Social Security Administration to make monthly capitation payments to the HMO on behalf of such a beneficiary shall terminate as of the first day of the month in which the termination of his membership in the HMO as a health insurance program beneficiary is made effective, as shown on the records of the Social Security Administration. In no event will such month be earlier than the month immediately following, or later than the third month following, the month in which the disenrollment notice is received in acceptable form by the Social Security Administration.

(iii) Where the health insurance program beneficiary fails to pay the premium, or portion thereof, attributable to a supplemental benefit plan (but continues to pay other premiums, the beneficiary has contracted for, the HMO may cease to provide such supplemental coverage to such a beneficiary, as provided for in its membership rules, but may not disenroll the beneficiary for nonpayment of premiums applicable to a supplemental benefit plan.

(2) *Enrollee moves out of the HMO's service area or area in which enrollment of health insurance program beneficiaries is required.* A health insurance program beneficiary enrolled by the HMO as provided in § 405.2020(b) may be disenrolled by the HMO if he moves permanently out of the HMO's service area or area in which enrollment of health insurance program beneficiaries is required (see § 405.2020(b)(2)) and does not voluntarily disenroll pursuant to

paragraph (b) of this section. Where the HMO does not disenroll such a beneficiary, the HMO's enrollment area is not automatically expanded to include the geographic area of the beneficiary's new permanent residence, notwithstanding the provisions of § 405.2005(a)(1). Where the HMO elects to disenroll a beneficiary who moves permanently outside the HMO's service area or area in which enrollment of health insurance program beneficiaries is required (see § 405.2020(b)(2)) and such a beneficiary does not voluntarily disenroll, the HMO may do so provided that the HMO, on the basis of a written statement from the beneficiary or other evidence acceptable to the Social Security Administration, establishes that the beneficiary has permanently moved out of such an area and gives written notice of termination of enrollment to the beneficiary pursuant to the requirements of paragraph (a)(1)(i) of this section. In that event, the Social Security Administration's liability to make monthly capitation payments to the HMO on behalf of the beneficiary shall terminate as of the first day of the month in which the termination of his membership in the HMO as a health insurance program beneficiary is made effective, as shown on the records of the Social Security Administration. In no event will such month be earlier than the month immediately following, or later than the third month following, the month in which the disenrollment notice is received from the HMO in acceptable form by the Social Security Administration.

(3) *Enrollee dies.* The liability of the Social Security Administration to make monthly per capita payment shall terminate effective with the month immediately following the month of death.

(4) *Enrollee's entitlement to benefits under the supplementary medical insurance program ends.* (i) The liability of the Social Security Administration to make monthly capitation payments to the HMO on behalf of the beneficiary shall terminate effective with the month immediately following the last month of entitlement to benefits under the supplementary medical insurance program. The beneficiary may be continued as an enrollee other than a health insurance program beneficiary by the HMO under its regular plan if the HMO and the enrollee so choose.

(ii) Where an enrollee loses entitlement to benefits under the hospital insurance program, but remains entitled to benefits under the supplementary medical insurance program, he shall automatically continue as an enrollee of the HMO as a health insurance program beneficiary. He shall be entitled to receive and have payment made for services, as provided for in § 405.2021 beginning with the month immediately following the last month of his entitlement to hospital insurance program benefits.

(5) *Enrollee commits fraud or permits abuse of HMO card.* A health insurance program beneficiary may be disenrolled by the HMO if such beneficiary knowingly provides, on the application form, fraudulent information upon which an

HMO relies and which materially affects his or her eligibility to enroll in the HMO, or if the beneficiary intentionally permits others to use his or her membership card to receive services from the HMO. In either case, the HMO must give the beneficiary a written notice of termination of enrollment. Such notice must be mailed to the enrollee prior to the submission of the disenrollment notice to the Social Security Administration. Such notice shall include an explanation of the enrollee's right to have any such disenrollment heard under the grievance procedures established pursuant to § 405.2057. The liability of the Social Security Administration to make monthly capitation payments to the HMO on behalf of such a beneficiary shall terminate as of the first day of the month in which the termination of his membership in the HMO is made effective, as shown on the records of the Social Security Administration. In no event shall such month be earlier than the month immediately following, or later than the third month following, the month in which the disenrollment notice is received in acceptable form by the Social Security Administration.

(b) *Beneficiary disenrollment.* A health insurance program beneficiary may disenroll from an HMO at any time by giving the HMO a signed, dated, written request on such form and in such manner as the HMO may require at least 30 days prior to the month in which he wishes the termination to be effective. In such cases, the HMO shall submit a disenrollment notice to the Social Security Administration within 30 days following the beneficiary's request. The liability of the Social Security Administration to make monthly payments to the HMO on his behalf shall terminate with the close of the month of termination requested by the beneficiary, except that in no event shall the last month of payment of payment be earlier than the month in which the beneficiary requested termination.

(c) *Disenrollment in cases of termination or default of contract.* (1) The termination of a contract between an HMO and the Secretary, whether by mutual consent or unilateral action by either party, shall result in the termination of the liability of the Social Security Administration to make monthly capitation payments and the last month of liability shall be the last month for which the contract is effective.

(2) Where an HMO, for bankruptcy or other reasons, defaults in its contract with the Secretary prior to the close of the contract year, the Secretary shall establish the month in which the liability of the Social Security Administration to make monthly capitation payments for all health insurance program beneficiaries enrolled in the HMO shall cease, and shall notify the HMO and such enrollees of his determination in writing as soon as practicable.

§ 405.2056 Beneficiary grievances and appeals.

(a) *Definition of enrollee.* Unless otherwise indicated, the term "enrollee" as

used in §§ 405.2056-405.2063, means an HMO enrollee who is a beneficiary under title XVIII of the Social Security Act.

(b) *General.* This subpart establishes procedures for the presentation and resolution of grievances of enrollees, initial determinations, reconsiderations, hearings, Appeals Council review, court review, and finality of decisions which are applicable only in matters arising under section 1876 of the Act, as amended. The grievance procedure applies to all complaints that are not initial determinations. The appeals procedure pertains to disputes involving initial determinations (see § 405.2058) with which the enrollee is dissatisfied (i.e., the enrollee has received items or services for which he is found liable for reimbursement) or requests for services which may be paid for under title XVIII of the Act and which the HMO has refused to provide or arrange for and which have not been provided elsewhere. Any determinations regarding items or services which were furnished by the HMO, either directly or through arrangement, for which the enrollee is not liable are, therefore, not subject to appeal. Services excluded from coverage under title XVIII of the Act and recognized as such in the contract between the HMO and the enrollee by their inclusion in a supplemental plan (see § 405.2022(a)) or otherwise, are subject only to a grievance procedure. (See § 405.2057.) Physicians and other individuals who are furnishing items or services under arrangement with an HMO have no right of appeal. The provisions of Subpart J of Part 404 of this chapter dealing with representation of parties under title II of the Act are, unless otherwise provided in this subpart, also applicable to matters arising under section 1876 of the Act.

(c) *Responsibility for establishing grievance and appeal procedures.* The provisions of this subpart apply equally to all beneficiaries under title XVIII of the Act who are enrollees in an HMO regardless of the method of claims processing adopted by the particular HMO. The HMO will be responsible for establishing and maintaining the appeal procedures which are specified within this subpart and are required to be met by the HMO. Where, however, a carrier or intermediary processes the claims for the HMO enrollees, such carrier or intermediary is acting in the place of the HMO (except with regard to initial determinations as specified in § 405.2058(a)(4)) and conducts the appeal procedures specified in this subpart, except that § 405.2059(h)(1)(ii), shall not apply to such carrier or intermediary. The grievance procedure, however, shall be the responsibility of the HMO.

(d) *Written description of grievance and appeals procedure.* It shall be the responsibility of each HMO to ensure that all enrollees who are beneficiaries under title XVIII of the Act are informed in writing of the grievance and appeal procedures which are available to them.

§ 405.2057 Grievance procedure.

(a) *Grievances; general.* For those enrollees who are entitled to benefits under

title XVIII of the Act, any oral or written complaint regarding HMO services or procedures, whether medical or non-medical (e.g., termination of enrollee's membership in the HMO, scheduling of appointments, courtesy of employees, refusal to provide or reimburse for services under a supplemental plan, etc.), but only where the payment amount is not in controversy (e.g., the HMO has rendered services and liability for payment is not involved) except where the payment amount relates to services covered under a supplemental plan, is to be referred as a grievance to the initial level of the HMO's grievance procedure. (For complaints involving reimbursement for services which may be paid for under title XVIII of the Act, or refusal to provide or arrange for such services, see §§ 405.2058-405.2062.) At both levels of the grievance process the enrollee, or his representative, shall have a reasonable opportunity to submit written evidence and contentions as to facts relative to the grievance. The internal grievance system must also be in compliance with the qualifying conditions enumerated in § 405.2010.

(b) *Initial grievance level.* (1) The HMO shall designate an initial grievance committee which may consist of one or more individuals, which will be responsible on an ongoing basis: (i) For receiving all enrollee grievances; and (ii) for taking necessary corrective action regarding the grievances. (2) All actions taken as a result of the grievance shall be final and binding on both the HMO and the enrollee unless the enrollee pursues his grievance at a higher level. (3) Within 2 months of the filing of a grievance the enrollee shall be notified in writing as to the action taken.

(c) *Higher grievance level.* Where the enrollee does not agree with the findings or recommendations of an initial grievance committee, he shall have the opportunity to submit his grievance to a higher grievance committee on which the HMO administrative staff, and the enrollees (who may, but are not required to be beneficiaries under title XVIII of the Act), each represent at least one-third of the committee. Medical staff and others may be represented at the discretion of the HMO. The higher grievance committee shall be empowered to review the activities of the initial grievance committee and to make findings regarding those grievances referred to it. Such committee may forward any problems to the HMO board of directors. Such committee shall within 2 months of receiving the grievance notify the enrollee in writing of any action it takes. All actions taken by a higher grievance committee shall be final and binding on the HMO and enrollee.

(d) *Alternative grievance procedures.* The Secretary shall waive the requirements contained in paragraphs (a), (b), and (c) of this section: (1) if an HMO submits an alternative written plan which complies with the standards set forth in paragraph (e) of this section and meets the approval of the Secretary; and (2) if the HMO can show: (i) that

it would be unable to use the procedure in paragraphs (a), (b), and (c) of this section; or that such procedure would be impractical or would create a hardship for the HMO; and (ii) that such alternative plan provides adequate protection of the enrollee's rights.

(e) *Minimum standards for an alternative grievance procedure.* Any alternative grievance procedure submitted by an HMO must, as a minimum: (1) Facilitate the submission of complaints which the HMO's enrollees may have; (2) Provide for the submission of evidence by the enrollee; (3) Provide for the investigation of any complaint and assure that appropriate action is taken promptly in every case; (4) Provide for notification of the enrollee, within 2 months of the filing of the grievance, as to the results of the investigation and the action taken; (5) Be in compliance with the qualifying conditions enumerated in § 405.2010; and (6) Provide for representation of the enrollee(s) in the grievance process. (Such representative(s) of enrollee(s) (who may or may not be beneficiaries under title XVIII of the Act) shall constitute at least one-third of the members (other than clerical) of the grievance system.)

§ 405.2058 Initial determinations.

(a) *HMO, intermediary, or carrier actions which are initial determinations.* For the purpose of this subpart, an initial determination made by an HMO, or intermediary or carrier acting for the HMO, with respect to the rights of an enrollee who is a beneficiary under title XVIII of the Act includes, in addition to determinations related to services for which benefits under title XVIII of the Act may be payable, rendered by the HMO, any determination with respect to the following:

(1) Reimbursement for emergency services as defined in § 405.2005(a)(3)(i);

(2) Reimbursement for urgently-needed services as defined in § 405.2005(a)(3)(ii), furnished to an enrollee during a period of temporary absence from the geographic area serviced by the HMO;

(3) Any other health services which the enrollee believes to be covered under title XVIII of the Act which is rendered by a physician, supplier, or provider of services other than the HMO and which the enrollee believes should have been provided or arranged for or reimbursed by the HMO;

(4) The HMO's declination to provide services which the enrollee believes should be provided or arranged for by the HMO and which the enrollee has not received outside the HMO.

(5) The HMO's failure to notify the enrollee, in accordance with paragraph (b) of this section, of its determination within 60 days of the request to provide, arrange for, or reimburse for services shall constitute an adverse initial determination which may be appealed.

(b) *Notice of adverse initial determination.* In any case in which an HMO, intermediary, or carrier makes a partially

or fully adverse determination involving a request for payment or an HMO refuses to provide or arrange for requested services with respect to the enrollee under paragraph (a) of this section, regardless of the amount in controversy, the HMO, intermediary, or carrier, as applicable, shall notify the enrollee in writing within 60 days of such enrollee's request for payment or services. Such notice to the enrollee, or his representative, shall state in detail the basis for the determination. Such written notice shall also inform the enrollee of his right to reconsideration.

(c) *Parties to the initial determination.* The parties to the initial determination are the enrollee or an assignee (i.e., a physician who accepts assignment for services rendered to enrollees, which are not covered by the plan of the HMO), or the enrollee's representative (or if the enrollee is deceased, the representative of such enrollee's estate), or any other entity determined to have an appealable interest in the proceeding.

(d) *Effect of initial determination.* The initial determination shall be final and binding upon the party or parties to such determination, or if such party is deceased, upon the representative of such individual's estate, unless the determination is reconsidered in accordance with § 405.2059 or is revised in accordance with § 405.2063.

§ 405.2059 Appeals: Reconsideration.

(a) *General.* An enrollee, his authorized representative (or, if an enrollee is deceased, the representative of such enrollee's estate), or any party to an initial determination as described in § 405.2058 (c) who is dissatisfied with an initial determination as described in § 405.2058(a) may request a reconsideration of such determination in accordance with paragraph (b) of this section regardless of the amount in controversy.

(b) *Place and method of filing request for reconsideration.* A request for reconsideration by an enrollee or his representative is to be made in writing and filed with the HMO, intermediary, or carrier which made the initial determination, at an office of the Social Security Administration, or, in the case of a qualified railroad retirement beneficiary (see § 405.368), at an office of the Railroad Retirement Board. The request may be made on a specific form designated by the Social Security Administration or by any written means.

(c) *Time of filing request for reconsideration.* The request for reconsideration shall be filed within 6 months from the date of the mailing of the notice of an initial determination unless such time is extended as provided in paragraph (d) of this section.

(d) *Extension of time to request reconsideration.* If a party to an initial determination, or his representative, desires to file a request for reconsideration after the time for filing such request specified in paragraph (c) of this section has passed, such party or representative may file a petition with the HMO, intermediary, carrier, the Social Security Administration, or, in the case of a qualified

railroad retirement beneficiary, at an office of the Railroad Retirement Board, for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the HMO, intermediary, or carrier may extend the time for filing the request for reconsideration.

(e) *Parties to the reconsideration.* The parties to the reconsideration shall be the persons or entities who were parties to the HMO's, intermediary's, or carrier's initial determination as described in § 405.2058(c) and any other person or entity whose rights with respect to the initial determination which is being reconsidered may be affected by such reconsideration.

(f) *Withdrawal of request for reconsideration.* A request for reconsideration may be withdrawn by the enrollee or his representative who filed the request provided the withdrawal is made in writing and filed with the HMO, intermediary, carrier, the Social Security Administration, or, in the case of a qualified railroad retirement beneficiary, at an office of the Railroad Retirement Board.

(g) *Opportunity to submit evidence.* The parties to the reconsideration shall have a reasonable opportunity to submit written evidence and contentions as to facts or law relative to the issue in dispute. The parties may present evidence in person.

(h) *Reconsideration determination.* The first step in the reconsideration of an initial determination shall be undertaken by the HMO, intermediary, or carrier which adjudicated the claim initially, except that where the provision of services has been refused, the HMO will conduct the reconsideration in paragraph (h)(1) of this section. The HMO, intermediary, or carrier shall thoroughly review such initial determination made under § 405.2058(a), the evidence and findings upon which such determination was based, and any additional evidence submitted to the HMO, intermediary, carrier, or the Social Security Administration. However, such review shall not be made by any person who made, or assisted in making, the initial determination.

(1) *Reconsideration by an HMO.* Where the HMO adjudicates the claim initially or has refused to provide or arrange for requested services, the following procedure should be followed at the reconsideration level:

(i) *If HMO can make a favorable determination.* If the HMO can make a completely favorable determination in regard to the enrollee, the HMO shall revise the initial determination accordingly;

(ii) *If HMO recommends that determination be affirmed.* If the HMO recommends that the initial determination be affirmed, in whole or in part, the HMO shall prepare a written explanation of its recommendation and forward the entire case file to the Social Security Administration. The Social Security Administration shall review such file and

any additional evidence found to be necessary, and shall make a determination affirming or revising, in whole or in part, such initial determination.

(2) *Reconsideration by an intermediary or carrier.* In those cases where an intermediary or carrier initially adjudicated the claim for the HMO, the reconsideration determination will be made by the intermediary or carrier, as applicable. Whether favorable to the beneficiary or not, it shall be a final and binding determination in accordance with paragraph (j) of this section.

(i) *Notice of reconsideration determination.* Written notice of the reconsideration determination shall be mailed to the parties to the reconsideration. The notice shall explain the basis of the reconsideration determination and shall advise the beneficiary of his right to a hearing by an administrative law judge if the amount in controversy is \$100 or more. The notice shall also indicate the place and manner of requesting a hearing and the time limit during which a hearing must be requested (see § 405.2060(c)).

(1) Such notice will be mailed by the HMO in those cases in which the HMO fully reverses its initial determination, and by the processing intermediary, carrier, or the Social Security Administration in every case in which such organization makes the reconsideration determination. A copy of the determination shall be sent to the Social Security Administration.

(2) In those cases processed by the HMO in which the initial determination is affirmed, or partially affirmed, the Social Security Administration will mail notice of the reconsideration determination to the parties thereto and a copy of the notice shall be sent to the HMO.

(j) *Effect of reconsideration determination.* The reconsideration determination shall be final and binding upon all parties to the reconsideration unless a request for hearing is filed within 6 months after the date of mailing of the notice of the reconsideration to such parties or unless the reconsideration determination is revised upon reopening in accordance with the provisions of § 405.2063.

§ 405.2060 Appeals: Hearing.

(a) *General.* Sections 404.917-404.940 of this chapter (dealing with the conduct of hearings) are, unless otherwise provided in this subpart, also applicable to hearings arising under this subpart.

(b) *Right to hearing.* An enrollee or any other party as described in § 405.2058(c) or § 405.2059(e), with the exception of an HMO, has a right to a hearing before the Secretary regarding any initial determination made under § 405.2058 for either Part A or Part B services if:

(1) Such initial determination has been reconsidered by the Social Security Administration (unless the initial determination was fully reversed by the HMO, in accordance with § 405.2059), or by an intermediary, or carrier;

(2) The enrollee, or party, was a party to the initial or reconsideration determination;

(3) The enrollee, his representative, or the party or his representative has filed a written request for a hearing in accordance with the procedure described in paragraphs (c) and (d) of this section; and

(4) The amount in controversy is \$100 or more. (The amount in controversy, which can include any combination of Part A and Part B services, is to be computed in accordance with § 405.740 for Part A services and § 405.820(b) for Part B services. Where the basis for the appeal is the refusal of services, the projected value of such services shall be utilized in computing the amount in controversy.)

(c) *Place of filing request for hearing.* The request shall be made in writing at the HMO, an office of the processing intermediary or carrier, an office of the Social Security Administration or, in the case of a qualified railroad retirement beneficiary, an office of the Railroad Retirement Board.

(d) *Time limit for filing request for hearing.* Any request for hearing must be filed within 6 months after the date of mailing of the notice of the reconsideration determination to the enrollee, except where the time is extended by an administrative law judge as provided in § 404.954(a) of this chapter.

(e) *Parties to a hearing.* The parties to a hearing shall be the parties to the reconsideration determination and any other person whose rights with respect to the reconsideration determination might be affected. The HMO shall also be made a party to any such hearing; however, the HMO does not have a right to request a hearing. Fees for any services rendered by a representative appointed on behalf of the HMO shall not be subject to the provisions of section 206 of the Social Security Act.

(f) *Dismissal of request for hearing: Amount in controversy less than \$100.* The determination as to whether the amount in controversy is \$100 or more, qualifying the enrollee for a hearing, shall be made by the administrative law judge. The administrative law judge shall dismiss the request for hearing if such request plainly shows that less than \$100 is in controversy. If a hearing is held and the administrative law judge finds that the amount in controversy is less than \$100, he shall dismiss the request for hearing and will not rule on the substantive issues involved in the appeal.

§ 405.2061 Appeals Council review.

Provisions regarding Appeals Council review which are contained in § 404.942ff of this chapter shall apply to the HMO appeals process. The HMO which is a party to a hearing, as well as any other party, has a right to request Appeals Council review of the administrative law judge's decision or dismissal.

§ 405.2062 Court review.

An enrollee or the HMO shall be entitled to judicial review:

(a) Of the decision of an administrative law judge if the Appeals Council has denied the enrollee's or the HMO's request for review, and the amount in controversy is \$1,000 or more, or

(b) Of a decision by the Appeals Council when that is the final decision of the Secretary and the amount in controversy is \$1,000 or more. The civil action is to be filed in a district court of the United States in accordance with section 205(g) of the Act (see § 422.210 of this chapter for the procedure for filing such action).

§ 405.2063 Time period for reopening initial, revised, or reconsideration determinations and decisions or revised decisions of an administrative law judge or the Appeals Council.

An initial, revised, or reconsideration determination made by an HMO, an intermediary or carrier, or the Social Security Administration or a decision or revised decision of an administrative law judge or of the Appeals Council, with respect to a party's rights under section 1876 of the Act, may be reopened in accordance with the provisions of § 405.750 (a), (b), and (c).

[FR Doc.76-6022 Filed 3-3-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0067]

SUBCHAPTER A—GENERAL

PART 4—PUBLIC INFORMATION

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 314—NEW DRUG APPLICATIONS

Freedom of Information, Clarification

The Food and Drug Administration (FDA) is making minor clarifying amendments in §§ 4.81 and 314.14(f) (21 CFR 4.81 and 314.14(f)) concerning public information. Because the amendments do not alter the purpose or effect of either provision, they are effective upon publication.

The Commissioner of Food and Drugs issued final regulations, published in the *FEDERAL REGISTER* of December 24, 1974 (39 FR 44602), governing the disclosure of information to the public in conformity with the public information section of the Administrative Procedure Act, known commonly as the Freedom of Information Act (5 U.S.C. 552). Interested persons were invited to file, within 60 days of publication of the final order in the *FEDERAL REGISTER*, written comments regarding matters not raised in the original notice or proposed rulemaking published in the *FEDERAL REGISTER* of May 5, 1972 (37 FR 9128) and considered in the preamble to the final order. A second final order summarizing the 28 comments received, setting forth the Commissioner's responses to the comments, and, where warranted, amending the specific regulations involved, will be published in the *FEDERAL REGISTER* in the near future.

On May 6, 1975, the Pharmaceutical Manufacturers Association (PMA) filed suit in the United States District Court for the District of Columbia ("Pharmaceutical Manufacturers Association v. Mathews," No. 75-0725, D.D.C.) seeking an order declaring invalid and enjoining the enforcement of certain provisions of the December 24, 1974 final regulations. The primary issue in the lawsuit involves the question of whether member companies of PMA are entitled to administrative notice of, and an opportunity to consult with FDA on, every contemplated disclosure by the agency of information submitted by, obtained from, or pertaining to them or their products. On August 1, 1975, PMA's Motion for a Preliminary Injunction on the notice and consultation issue was denied by the District Court for the District of Columbia. (Sirica J., 401 F. Supp. 444 (D.D.C. 1975)). The parties have subsequently filed cross-motions for summary judgment on all issues in the suit. Those motions are now pending before the Court.

The Commissioner has determined to make minor amendments to §§ 4.81 and 314.14(f) of the public information regulations at this time, rather than waiting for publication of the second final order in the FEDERAL REGISTER. PMA has challenged aspects of both sections. Specifically, PMA has asserted (1) that § 4.81 may be inconsistent with other agency regulations prescribing the disclosures required to be made by sponsors of drug investigations to clinical investigators and institutional review committees; and (2) that § 314.14(f) is inconsistent with paragraph 269 of the preamble to the December 24, 1974 final order because it fails to provide for nondisclosure of safety and effectiveness data and information in abandoned, terminated, or withdrawn IND's or NDA's if extraordinary circumstances are shown. FDA has stated in documents filed in the District Court (1) that the preamble reflects the policy of the agency and that the "extraordinary circumstances" language was inadvertently omitted from § 314.14(f); and (2) that pursuant to preamble paragraph 116, disclosures required to be made to clinical investigators and institutional review committees are not considered to be disclosures to the public within the meaning of § 4.81.

PMA asserts that §§ 4.81 and 314.14(f) are unlawful as presently written. To avoid distracting the District Court from other genuine issues in the lawsuit, the Commissioner has concluded that clarifying amendments to §§ 4.81 and 314.14(f) should be effected at this time. Neither of the amendments reflects a change in policy or a deviation from existing practice. The amendments merely correct an inadvertent omission in § 314.14(f) and clarify § 4.81 to state explicitly that disclosures to clinical investigators and institutional review committees do not result in a loss of confidentiality for the information disclosed.

The Commissioner has concluded that good cause exists for publishing these amendments without a period for public comment pursuant to 5 U.S.C. 553(c)

and for making the amendments effective immediately, because opportunity for public comment on the public information regulations of FDA has been accorded on two separate occasions and because these minor amendments merely codify existing practice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. as amended, (21 U.S.C. 321 et seq.)); the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq. as amended (42 U.S.C. 201 et seq.)); and the Freedom of Information Act (Pub. L. 90-23, 81 Stat. 54-56 as amended by 88 Stat. 1561-1565 (5 U.S.C. 552)); and under authority delegated to the Commissioner (21 CFR 2.120), Parts 4 and 314 are amended as follows:

1. By adding a new paragraph (a) (3) to § 4.81 to read as follows:

§ 4.81 Data and information previously disclosed to the public.

(a) * * *

(3) For purposes of this section, data and information disclosed to clinical investigators or members of institutional review committees, whether required by § 312.1(a)(3) of this chapter or other regulations of the Food and Drug Administration, or made voluntarily, if accompanied by appropriate safeguards to assure secrecy and otherwise in accordance with this section, are not deemed to have been previously disclosed to any member of the public within the meaning of paragraph (a) of this section.

2. By revising the introductory text of paragraph (f) of § 314.14 to read as follows:

§ 314.14 Confidentiality of data and information in a new drug application (NDA) file.

(f) All safety and effectiveness data and information not previously disclosed to the public are available for public disclosure at the time any one of the following events occurs unless extraordinary circumstances are shown:

Effective date. This regulation shall be effective on March 4, 1976.

(Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 et seq. as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 et seq. as amended (42 U.S.C. 201 et seq.); (5 U.S.C. 552)

Dated: February 27, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 76-6195 Filed 3-3-76; 8:45 am]

Title 22—Foreign Relations

CHAPTER VI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PART 601—STATEMENT OF ORGANIZATION

Revision

The U.S. Arms Control and Disarmament Agency is amending its Statement of Organization to describe the organi-

zation of the Agency effective January 1, 1976.

22 CFR Part 601 is revised to read as follows:

Sec.

601.1 Definitions.

Subpart A—Agency Responsibilities and Structure

601.5 Agency responsibilities.

601.6 Agency structure.

601.7 General Advisory Committee.

Subpart B—Functional Statements

601.10 Office of the Director.

601.11 Office of the General Counsel.

601.12 Military Affairs Bureau.

601.13 Non-Proliferation and Advanced Technology Bureau.

601.14 International Relations Bureau.

601.15 Verification and Analysis Bureau.

601.16 Office of Administration.

601.17 Office of Public Affairs.

AUTHORITY: Sec. 1, 81 Stat. 54 (5 U.S.C. 552); sec. 41, 75 Stat. 631 (22 U.S.C. 2581), sec. 501, 65 Stat. 290 (31 U.S.C. 483a).

§ 601.1 Definitions.

As used throughout this part, the following terms have the meaning set forth below:

(a) The term "Agency" and the acronym "ACDA" stand for the U.S. Arms Control and Disarmament Agency.

(b) The term "Assistant Director" means an Assistant Director of the U.S. Arms Control and Disarmament Agency.

(c) The term "Deputy Director" means the Deputy Director of the U.S. Arms Control and Disarmament Agency.

(d) The term "Director" means the Director of the U.S. Arms Control and Disarmament Agency.

Subpart A—Agency Responsibilities and Structure

§ 601.5 Agency responsibilities.

(a) The Agency is charged with providing the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control and disarmament policy, and assessing the effect of these recommendations upon our foreign policies, our national security policies, and our economy.

(b) The Agency also has the capacity for providing the essential scientific, economic, political, legal, social, psychological, military and technological information on which realistic arms control and disarmament policy must be based, and the authority, under the direction of the President and the Secretary of State, to carry out the following primary functions:

(1) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

(2) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

(3) The dissemination and coordination of public information concerning arms control and disarmament; and

(4) The preparation for, operation of, or as appropriate, direction of United States participation in such control sys-

tems as may become part of United States arms control and disarmament activities.

(c) The Agency works at the highest level of the U.S. Government, and under the direction of the Secretary of State, conducts U.S. participation in international arms control and disarmament negotiations. It does not normally hand down decisions or engage in regulations affecting the general public, since its functions are principally in the advisory or diplomatic areas, as noted above. A significant body of the research conducted in the Agency or by contract or interagency agreement is unclassified and will be made available to the public pursuant to the Freedom of Information Act. The reports embodying such research as well as those agency publications which may affect the general public will be made available in the Agency's Communications and Services Section. Members of the public will be afforded the opportunity to inspect and to obtain copies of such material.

§ 601.6 Agency structure.

(a) The Agency is headed by a Director, appointed by the President with the advice and consent of the Senate, who is responsible for the executive direction of the Agency. He also functions as the principal adviser to the Secretary of State, the National Security Council, and the President on arms control and disarmament matters and, under the direction of the Secretary, has primary responsibility within the Government for such matters. The Deputy Director, similarly appointed by the President with the advice and consent of the Senate, performs such duties and exercises such power as the Director may prescribe and acts for and exercises the power of the Director during his absence.

(b) The Agency's program responsibilities are primarily discharged through four bureaus, each of which is headed by an Assistant Director appointed by the President with the advice and consent of the Senate. These are the Military Affairs Bureau, the Non-Proliferation and Advanced Technology Bureau, the International Relations Bureau, and the Verification and Analysis Bureau. Within the range of its program responsibilities, each bureau is responsible for generating policy proposals, and for working closely with other ACDA bureaus and Government agencies on matters related to its program areas. Other organizational units with staff responsibilities are the Office of the General Counsel, the Office of Administration, and the Office of Public Affairs. In addition, the Special Assistant to the Director and Executive Secretary of ACDA, the Special Assistant for SALT, the Counselor, the Chief Scientist, and other officers within the Office of the Director furnish staff assistance to the Director and Deputy Director, or policy guidance within their specialized area of competence.

§ 601.7 General Advisory Committee.

The Act creating the Agency authorized the President, by and with the advice and consent of the Senate, to appoint a General Advisory Committee (GAC) of not to exceed 15 members. This committee must meet at least twice each year. From time to time, it advises the President, the Secretary of State, and the Director of ACDA on matters affecting arms control, disarmament and world peace. Under the Federal Advisory Committee Act (Pub. L. 92-463) and Executive Order 11769, as implemented by the Office of Management and Budget (OMB), the Agency exercises significant support functions for the GAC. These include, but are not confined to, providing legal staff assistance, such as approval of GAC recommendations to close any part of a GAC meeting; designating a Federal employee to be present at meetings and carry out other specified functions; receiving, reviewing, and approving annual GAC budget request; submitting an annual report on Committee activities; chartering the GAC in accordance with OMB requirements; and receiving and disposing of requests for records and reports pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552).

Subpart B—Functional Statements

§ 601.10 Office of the Director.

(a) The Director of the U.S. Arms Control and Disarmament Agency is the principal adviser to the Secretary of State, the National Security Council, and the President on arms control matters. Under the direction of the Secretary of State, he has primary responsibility within the Government for formulation of policy recommendations and for operations in such matters. He is responsible for the executive direction and coordination of all activities of the Agency and the Agency's relations with the Congress.

(b) The Deputy Director assists the Director in carrying out his responsibilities and acts for and exercises the powers of the Director during his absence.

(c) The Special Assistant to the Director and Executive Secretary, ACDA, directs and coordinates staff work for the Director and Deputy Director; conducts interagency and National Security Council liaison, as well as liaison with the General Advisory Committee on Arms Control and Disarmament; serves as the link between the top Agency decision makers and principal staff; and assists the Director in keeping policy and management aspects of arms control matters in phase.

(d) The Counselor is responsible for such special projects essential to the formulation of arms control policy as may be assigned by the Director.

(e) The Special Assistant for SALT is responsible for formulating ACDA positions and policies on the Strategic Arms Limitation Talks (SALT) in coordination with and with support from the con-

cerned Bureaus. He also serves as Chairman of the SALT Backstopping Committee—an interagency committee for backstopping the U.S. SALT Delegation. The incumbent also serves as U.S. Commissioner on the Standing Consultative Commission (SCC).

(f) The Chief Scientist serves as the principal scientific adviser to the Director and is the principal representative for the Director on all technical matters.

§ 601.11 Office of the General Counsel.

(a) The Office of the General Counsel is responsible for all matters of domestic and international law and for treaty affairs, and provides advice and assistance in the preparation of all drafts of proposed treaties relating to the implementation, interpretation and revision of treaties, and other subjects relating to the form and content of international agreements and their implementation.

(b) The Office has primary responsibility for Congressional matters, including all legislation, and for Agency liaison with the White House. It also is responsible for the legal aspects of Agency policies and operations in the areas of personnel, security, patents, contracts, procurement, fiscal, and administrative matters. The Office is responsible for the Agency's contracting, reimbursable agreements and grants program, and participates in the preparation of Agency regulations.

§ 601.12 Military Affairs Bureau.

(a) "The Military Affairs Bureau" has primary responsibility within the Agency for analyzing and evaluating defense programs, including nuclear armaments and major weapon systems, with respect to their impact on arms control and disarmament policy and negotiations, and for preparing recommendations based on such analyses and evaluations. Conversely, the Bureau evaluates the military implications of arms control agreements and potential arms control measures. Next to the International Relations Bureau, it plays a lead role in MBFR negotiations. The Bureau serves as ACDA's central point of contact with the Department of Defense.

(b) "The Tactical Affairs Division" participates in the formulation of arms control policies and specific negotiating proposals. It evaluates the impact of current and potential military strategies, tactical weapon systems, and force postures on arms control policies and proposals and evaluates the national security implications of arms control proposals; advises on alternatives; and initiates new arms control measures when appropriate. It also provides support for inspection and control systems (e.g., inspection of Antarctica under the Antarctic Treaty) which are or may become part of U.S. arms control activities.

(c) "The Strategic Affairs Division" analyzes and prepares recommendations on arms control impact statements relating to strategic armaments and weap-

on systems. It also generates proposals and evaluates options for quantitative and qualitative limitations on strategic weapons systems. It proposes or analyzes studies, projects and plans in support of the SALT negotiations.¹

§ 601.13 Non-Proliferation and Advanced Technology Bureau.

(a) "The Non-Proliferation and Advanced Technology Bureau" has technical and policy responsibilities involving arms control in such areas as the proliferation of nuclear weapons; nuclear weapon tests; military use of environmental modification; chemical, biological and radiological weapons; and other kinds of advanced weapon technology. It also has an operational responsibility for negotiations in some of the above areas. The head of the Bureau, or his representative, currently chairs the Non-Proliferation Backstopping Committee and the interagency group backstopping the Threshold Test Ban Treaty/Peaceful Nuclear Explosion negotiations.

(b) "The Weapons Technology Division" devotes most of its resources to arms control measures that might come under negotiation in the Conference of the Committee on Disarmament (CCD) or elsewhere with particular emphasis on the technological factors involved in arms control policy. These measures include nuclear weapon test limitations; control of military use of environmental modification; chemical, biological and radiological weapons control; and limitations on advanced weapons developments including high-energy laser weapons and other kinds of weapons of mass destruction.

(c) "The Nuclear Energy Division" is responsible for analyzing the arms control aspects of U.S. and foreign nuclear technology, particularly as it relates to nuclear weapons, nuclear reactors, and facilities for producing and processing fissionable material. This responsibility includes the formulation and evaluation of policy recommendations for curbing the spread of nuclear weapons to additional countries, as well as other arms control policy issues involving nuclear technology.

(d) "The International Division" performs a variety of activities in support of the Nuclear Non-Proliferation Treaty, such as encouraging additional adherences to the Treaty, ensuring its adequate implementation, and participating in international reviews of its operation. The Division also participates in international discussions of common nuclear supply policies and other proposals aimed at regulating international transactions in the nuclear export field, and represents ACDA in intra-Governmental consultations on this subject. The Division maintains liaison with the International Atomic Energy Agency in order to support that Agency's non-proliferation activities.

¹ ACDA studies, policy recommendations for the Director, and ACDA's position in the interagency process involving SALT are coordinated by the Special Assistant for SALT.

§ 601.14 International Relations Bureau.

(a) "The International Relations Bureau" is generally responsible for the diplomatic/policy aspects of arms control negotiations. It conducts and backstops the negotiations at the Conference of the Committee on Disarmament (CCD) and plays a leading role in the annual UN disarmament debates. On MBFR, the Bureau coordinates implementation of agreed policy in the East-West negotiations and in continuing NATO consultations about issues arising in the Vienna talks and also has the leading role in formulating ACDA positions on basic MBFR policy questions that require high-level Washington decisions. It assesses world military expenditures and arms transfers to other countries and assists the Director in advising other USG agencies on individual US arms transfers and on arms transfer policy. In addition, the Bureau provides advice on other regional arms control matters and on political aspects of SALT.

(b) "The Regional Division," in addition to the major responsibility of providing the support staff for ACDA's interagency responsibilities for MBFR, is responsible for providing advice on the regional impact of SALT, particularly as it affects the interests of NATO Allies, and for pursuing arms control possibilities in other regions.

(c) "The CCD and UN Division" has the major responsibility for US participation in the CCD and takes a leading role in the annual United Nations disarmament debates. The Division also oversees many matters that relate to various arms control treaties and their implementation.

(d) "The Arms Transfer Division" develops policy recommendations and negotiating proposals relating to the control of international transfers of arms and related technology and, under the supervision of the Assistant Director for IR, represents the Director in advising State, NSC, and the White House concerning arms control factors involved in individual US arms transfers and in policy decisions related to such transfers. This Division also organizes, evaluates, and as appropriate publishes data on worldwide conventional arms transfers and production, and conducts or oversees research appropriate to improving the knowledge and control of international arms transfers.

§ 601.15 Verification and Analysis Bureau.

(a) "The Verification and Analysis Bureau" is responsible for studying the verifiability of existing arms control agreements and possible new agreements, the implications for national security of the verifiability of such agreements, and the development of new and improved verification technology. The Bureau evaluates the economic implications of arms control agreements and potential arms control measures, and has the operational responsibility for assessing world military expenditures. The Bureau also analyzes the quantitative aspects of arms control policies and operations. Through an Intelligence Staff, the Bu-

reau serves as the Agency's central point of contact with the intelligence community.

(b) "The Verification Division" conducts internal studies and initiates external research on the verification process and its relation to arms control proposals, negotiations and agreements. Evaluation of verification procedures and systems is done to identify limitations, opportunities and new requirements.

(c) "The Operations Analysis Division" studies the quantitative aspects of arms control policies and operations. Its work includes analysis of present and future relative force capabilities, analysis of operational and technical constraints and the effect of uncertainties on force structures, and the evaluation of verification systems. The Division supports policy formulation in the strategic arms limitations area, the mutual and balanced force reductions area, the comprehensive test ban area and other areas as assigned.

(d) "The Economics Division" assesses the economic effects of military spending and arms control initiatives, analyzes the economics of technologies relevant to arms control, studies the use of economic measures to achieve arms control objectives, assesses from an arms control perspective the impact on military budgets caused by economic forces, monitors and develops proposals relating to the military expenditures of all nations and their limitations, and studies other economic questions relating to arms control.

§ 601.16 Office of Administration.

The Office of Administration, under the direction of the Executive Officer, is responsible for administrative management of the Agency and for providing support to all of its components. This includes all personnel, budget, fiscal, supply, security, communications and general administrative activities. The Office advises the Director and other senior officials of the Agency on these and other matters relating to the management of the Agency, and maintains regular liaison with the Department of State and other organizations providing services for the Agency.

§ 601.17 Office of Public Affairs.

The Office of Public Affairs, under the direction of the Public Affairs Adviser, carries out the Agency's responsibility for the dissemination and coordination of public information concerning arms control matters. It also advises the Director, Deputy Director and other Agency officers on the public information aspects of such matters. In conjunction with other Agency components, the Office prepares for transmittal to the Congress an annual report of the Agency's activities including a positive statement on the status and prospects of arms control and disarmament goals, negotiations, and activities. Within the Office, the ACDA Historian is responsible for the preparation of historical analyses on arms control topics and previous negotiations.

Dated: January 30, 1976.

FRED C. IKLE,
Director.

[FR Doc.76-6184 Filed 3-3-76; 8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

MISCELLANEOUS AMENDMENTS; CORRECTIONS

Chapter I of Title 23 of the Code of Federal Regulations is amended by making the following changes which are in the nature of corrections.

PART 652—BIKEWAYS AND WALKWAYS IN CONJUNCTION WITH FEDERAL AND FEDERAL-AID HIGHWAYS

In § 652.1—The words "The purpose of this subsection" are changed to "The purpose of this part";

PART 710—RIGHT-OF-WAY—GENERAL

In § 710.304(b) (2)—The reference to Volume 1, Chapter 4, Section 5 is changed to "Part 140, Subpart G of this chapter";

In § 710.304(f)—The reference to Volume 6, Chapter 4, Section 1, Subsection 6 is changed to "Part 635, Subpart A of this chapter";

In § 710.304(i)—The reference to Volume 1, Chapter 4, Sections 3 and 4 is changed to "Part 140, Subpart I and Part 645, Subpart A of this chapter";

PART 712—THE ACQUISITION FUNCTION

In § 712.204(g)—The reference to Volume 6, Chapter 3, Section 1, Subsection 1 is changed to "Part 630, Subpart C of this chapter";

In § 712.502—712.503 is changed to "§ 712.503" and 712.504 is changed to "§ 712.504";

In § 712.504(b) (6)—The reference to PPM 90-1, 23 CFR Chapter I, Appendix A is changed to "Part 771 of this chapter";

In § 712.702(b)—The FEDERAL REGISTER citation is deleted;

PART 713—RIGHT-OF-WAY—THE PROPERTY MANAGEMENT FUNCTION

In § 713.302(b)—The reference to Volume 6, Chapter 1, Section 1, Subsection 8 is changed to "Part 620, Subpart B of this chapter";

In § 713.304(b)—The reference to Volume 6, Chapter 1, Section 1, Subsection 8 is changed to "Part 620, Subpart B of this chapter";

PART 720—APPRAISAL

In § 720.201(b) (3)—The words "or PPM 80-9" are deleted, and the words "and Parts 751 and 753" are inserted between the words "Subpart D of Part 750" and "of this chapter";

PART 740—RELOCATION ASSISTANCE

In § 740.55(b)—740.54 is changed to "§ 740.54";

PART 750—HIGHWAY BEAUTIFICATION

In § 750.103(b)—750.107 is changed to "§ 750.107";

In § 750.106(a)—"in accordance with Regulations * * *" should read "in accordance with section 1.35 of this chapter";

In § 750.106—Change the date in the source given as 23 FR 8793, November 13, 1970, to November 13, 1958;

In § 750.308—A footnote is added to advise that "Forms are available at FHWA Division Offices located in each State.";

PART 751—JUNKYARD CONTROL AND ACQUISITION

In § 751.7(d)—The reference to Volume 7, Chapter 6, Section 2 is changed to "Part 750, Subpart G of this chapter." The footnote is also deleted;

In § 751.25(a)—The reference to Volume 6, Chapter 3, Section 2, Subsection 2 is changed to "Part 630, Subpart A of this chapter";

PART 770—AIR QUALITY GUIDELINES FOR USE IN FEDERAL-AID HIGHWAY PROGRAMS

In § 770.205(b) (4)—The reference to Volume 7, Chapter 7, Section 2 is changed to "Part 771 of this chapter." The footnote is also deleted;

In § 770.205(c) (5)—The reference to Volume 7, Chapter 7, Section 2 is changed to "Part 771 of this chapter";

In § 770.205(d)—Delete "in accordance with the interim regulation (23 CFR Part 770, 38 FR 31677)" and insert "in accordance with Subpart B of Part 770 of this chapter";

PART 771—ENVIRONMENTAL IMPACT AND RELATED STATEMENTS

Section 771.18(i) (2) (i) (ix)—should be rewritten as follows:

§ 771.18 Content of the environmental impact statement.

- (i) * * *
- (2) * * *
- (iv) * * *
- (E) * * *

(ix) Flood hazard evaluation. When an alternative under consideration significantly encroaches on a flood plain, this section will include a summary of studies and consultation made for compliance with Part 650, Subpart A of this chapter, or information evidencing that such requirements can be met during project development.

The footnote is also deleted.

These amendments are entirely administrative in nature and no purpose would be served by observing the public rule-making process.

Issued on: February 25, 1976.

L. P. LAMM,
Executive Director.

[FR Doc. 76-6183 Filed 3-3-76; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7407]

PART 1—INCOME TAX, TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

PART 53—FOUNDATION EXCISE TAXES

Use of Form 5227

This document contains amendments to the Foundation Excise Taxes Regulations (26 CFR Part 53) and the Income Tax Regulations (26 CFR Part 1). The amendments provide for the filing of new Form 5227 by charitable trusts described in section 4947(a) (1) which are private foundations, and by certain split-interest trusts described in section 4947(a) (2).

The regulations also provide that in certain cases, the filing of Form 5227 by charitable trusts will also fulfill the income tax return filing requirement of section 6012 and thus obviate the necessity of filing Form 1041.

Amendments to the regulations. In view of the foregoing the Foundation Excise Taxes Regulations (26 CFR Part 53) and the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (a) of § 53.4940-1 is amended to read as follows:

§ 53.4940-1 Excise tax on net investment income.

(a) In general. Section 4940 imposes an excise tax of 4 percent on the net investment income (as defined in section 4940(c) and paragraph (c) of this section) of a tax-exempt private foundation (as defined in section 509) for each taxable year beginning after December 31, 1969. This tax will be reported on the form the foundation is required to file under section 6033 for the taxable year and will be paid annually at the time prescribed for filing such annual return (determined without regard to any extension of time for filing). In addition, an excise tax is imposed in the manner prescribed in paragraph (b) of this section on certain non-exempt private foundations (including certain non-exempt charitable trusts). Except as provided in the succeeding sentence, this tax is to be reported by means of a schedule attached to the organization's income tax return.

For taxable years ending on or after December 31, 1975, the tax imposed by section 4940(b) and paragraph (b) of this section on a trust described in section 4947(a) (1) which is a private foundation shall be reported on Form 5227. The tax imposed by section 4940(b) and this section is to be paid annually at the time the organization is required to pay its income taxes imposed under Subtitle A. Except as otherwise provided herein, no exclusions or deductions from gross investment income or credits against tax are allowable under this section.

PAR. 2. Section 53.6011-1 is amended by adding paragraph (d) to read as follows:

§ 53.6011-1 General requirement of return, statement, or list.

(d) For taxable years ending on or after December 31, 1975, every trust described in section 4947(a)(1) which is a private foundation and every trust described in section 4947(a)(2) which is subject to any of the provisions of Chapter 42 as if it were a private foundation shall file an annual return on Form 5227.

PAR. 3. Section 1.6012-3 is amended by revising the introductory text of paragraph (a)(1) and by adding paragraph (a)(7) to read as follows:

§ 1.6012-3 Returns by fiduciaries.

(a) *For estates and trusts.*—(1) In general. Except as otherwise provided in this paragraph, every fiduciary, or at least one of joint fiduciaries, must make a return of income on Form 1041 (or by use of a composite return pursuant to § 1.6012-5).

(7) *Certain trusts described in section 4947(a).* For taxable years ending on or after December 31, 1975, in the case of a trust described in section 4947(a)(1) which is a private foundation, and which has no taxable income for a taxable year, the filing requirement of section 6012 and this section shall be satisfied by the fiduciary of such trust filing Form 5227 pursuant to § 53.6011-1 of this chapter (Foundation Excise Tax Regulations). When the provisions of this paragraph are met, the fiduciary shall not be required to file Form 1041.

PAR. 4. Section 53.6071-1 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 53.6071-1 Time for filing returns.

(a) *General rule.* Except as provided in paragraphs (b) and (c) of this section, a return required by § 53.6011-1 shall be filed at the time the private foundation or trust described in section 4947(a)(2) is required to file its annual information or tax return under section 6033 or 6012 (as may be applicable).

(c) *Form 5227.* A Form 5227 required to be filed by paragraph (d) of § 53.6011-1 for a trust described in section 4947(a) shall be filed on or before the 15th day of the fourth month following the close of the trust's taxable year.

Because this Treasury decision revises the procedure for filing forms, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date of limitations of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 26, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc. 76-6275 Filed 3-3-76; 8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 245—PLAN FOR THE SECURITY CONTROL OF AIR TRAFFIC AND AIR NAVIGATION AIDS (SHORT TITLE: SCATANA)

The Deputy Secretary of Defense, the Deputy Secretary of Transportation, and the Defense Communications Commission, have approved this revised part, effective March 1, 1976.

SCATANA is an emergency preparedness plan which prescribes the joint action to be taken by the Federal Aviation Administration, Federal Communications Commission, and appropriate elements of the Department of Defense in the interest of national security in order to effect control of air traffic and air navigation aids under emergency conditions.

The revised Part 245 reads as follows:

Sec.	Foreword.
245.1	Explanation of terms.
245.2	The SCATANA Plan.
245.3	Application of Emergency Security Control of Air Traffic (ESCAT).
245.4	Implementation of Security Control of Air Traffic and Air Navigation Aids.
245.5	Tactical air movement plans.
245.6	Extract of Tactical Air Movement Plan.
245.7	War-time Air Traffic Priority List (WATPL).
245.8	Procedures for movement of air traffic.
245.9	SCATANA testing.
245.10	Authentication.
245.11	

AUTHORITY: Sections 245.1 to 245.11 issued under Title 5, U.S.C., sec. 301, Title 5, U.S.C. 552.

§ 245.1 Foreword.

(a) This part is promulgated in furtherance of the Federal Aviation Act of 1958, as amended, the Communications Act of 1934, as amended, and Executive Order 11490, and supersedes: Plan for the Security Control of Air Traffic and Air Navigation Aids—June 1971.

(b) This part defines the responsibilities of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and the appropriate military authorities for the security control of civil and military air traffic, and control of federal and non-federal air navigation aids.

§ 245.2 Explanation of terms.

For the purpose of this part and supporting documents, the following explanations apply:

(a) *Air defense emergency.* An emergency condition which exists when attack upon the continental United States, Alaska, Canada, or U.S. installations in Greenland by hostile aircraft or missiles is considered probable, is imminent, or is taking place.

(b) *Air defense identification zone.* Airspace of defined dimensions within which the ready identification, location and control of aircraft is required.

(c) *Air navigation aid (NAVAIDS).*

(1) Federal NAVAIDS. VOR, VORTAC, TACAN and LORAN stations owned and operated by an agency of the Federal Government such as the FAA, Military Services and United States Coast Guard.

(2) Non-Federal NAVAIDS. VOR, VORTAC and TACAN stations licensed by the FCC.

(d) *Appropriate military authorities.* Within the NORAD area of responsibility—CINCNORAD and NORAD region commanders. CINCNORAD has delegated all actions associated with the appropriate military authority to NORAD region commanders. Outside the NORAD area of responsibility—the Commander in Chief, or his designated representative, of unified or specified commands for U.S. areas located within their area of responsibility.

(e) *Defense area.* Any airspace of the United States (other than that designated as an ADIZ) in which the control of aircraft is required for national security.

(f) *Defense emergency.* An emergency condition which exists when:

(1) A major attack is made upon U.S. forces overseas, or allied forces in any area, and is confirmed either by the commander of a unified or specified command or higher authority.

(2) An overt attack of any type is made upon the United States and is confirmed either by the commander of a command established by the Secretary of Defense or higher authority.

(g) *Dispersal.* Relocation of aircraft to predesignated dispersed operating bases for the purpose of increasing survivability.

(h) *Diversion.* The intentional change of a flight from its intended destination for operational or tactical reasons.

(i) *Emergency Security Control of Air Traffic (ESCAT) Rules.* Emergency rules for the security control of air traffic prior to the declaration of Air Defense Emergency (see § 245.4).

(j) *FAA Region.* A geographical subdivision of the area for which the FAA is responsible.

(k) *Implement SCATANA.* The phrase used to direct FAA to commence those actions required in the SCATANA plan (see § 245.5).

(l) *Nontactical air traffic.* Civil or military flights other than tactical air traffic.

(m) *North American Air Defense Command (NORAD).* An integrated United States-Canadian command. NORAD includes, as component commands, the United States Air Force Aerospace Defense Command and the Canadian Forces Air Defense Command.

(n) *NORAD Region.* A geographical subdivision of the area for which NORAD is responsible.

(o) *Rerouting.* The intended deviation of a flight from its original course without changing its destination.

(p) *SARDA.* State and Regional Disaster Airlift. A plan for the use of non-air carrier aircraft during a national emergency.

(q) *SCATANA.* The short title for the joint DoD/DOT/FCC plan for the Security Control of Air Traffic and Air Navigation Aids.

(r) *Security control authorization.* Military authorization for an aircraft to take off when ESCAT is applied or SCATANA has been implemented. (See §§ 245.5 and 245.8).

(s) *Tactical air traffic.* Military flights actually engaged in operational missions against the enemy, flights engaged in immediate deployment for a combat mission, and preplanned combat and logistical support flights contained in Emergency War Plans.

(t) *United States.* The several states, the District of Columbia, the Commonwealth of Puerto Rico, and the several territories and possessions of the United States (including areas of air, land, or water administered by the United States under international agreement), including the territorial waters and the overlying airspace thereof.

(u) *War-time Air Traffic Priority List (WATPL).* The list comprises eight priorities designed to control the volume of air traffic when SCATANA has been implemented. (See § 245.5, §§ 245.6 and 245.8).

(v) *The use of the words "will" and "shall."* For the purpose of this Part, use of the words will and shall denotes mandatory compliance by the affected persons or agency(ies).

(w) *List of Acronyms and Abbreviations.*

ADIZ—Air Defense Identification Zone.
ARTCC—Air Route Traffic Control Center.
ATC—Air Traffic Control.
CINCNOAD—Commander in Chief North American Air Defense.
CRAF—Civil Reserve Air Fleet.
DoD—Department of Defense.
DVFR—Defense (ADIZ) Visual Flight Rules.
ESCAT—Emergency Security Control of Air Traffic.
EWO—Emergency War Orders.
FAA—Federal Aviation Administration.
FCC—Federal Communications Commission.
ICAO—International Civil Aviation Organization.
IFR—Instrument Flight Rules.
JCS—Joint Chiefs of Staff.
LORAN—A hyperbolic system of navigation, i.e., LORAN-A and LORAN-C systems of navigation.
NAVAID—Navigation Aid.
NORAD—North American Air Defense.

SAC—Strategic Air Command.
SARDA—State and Regional Disaster Airlift.
SCATANA—Security Control of Air Traffic and Air Navigation Aids.
TACAN—Tactical Air Navigation.
VFR—Visual Flight Rules.
VHF—Very High Frequency.
VOR—VHF Omnidirectional.
VORTAC—VHF Omnidirectional/Tactical Air Navigation.
WASP—War Air Service Program.
WATPL—War-time Air Traffic Priority List.

§ 245.3 The SCATANA Plan.

(a) *Purpose.* The purpose of this part is to establish responsibilities, procedures and instructions for the security control of civil and military air traffic and NAVAIDS which will provide for the most effective use of airspace under various emergency conditions.

(b) *Authority.* (1) The Joint Chiefs of Staff directives which outline NORAD responsibilities for the development of plans and policies in concert with the FAA and FCC for the establishment of a system for identification and security control of air traffic and air NAVAIDS.

(2) Federal Aviation Act of 1958, as amended.

(3) Communications Act of 1934, as amended.

(4) Executive Order 11490.

(5) The National Security Act of 1947, as amended.

(c) *Scope.* This part applies to all United States territory over which the FAA has air traffic control jurisdiction. For the purpose of this part, the appropriate military authorities within this territory are as follows:

(1) For the NORAD area of responsibility, NORAD region commanders have been designated as appropriate military authority by CINCNOAD.

(2) Outside the NORAD area, the commander, or his designated representative, of the unified-specified command exercising operational control over the area.

(d) *General description of the plan.* This part is intended to meet two types of situations. These are outlined below, together with a general summary of the actions required.

(1) In the first situation, an emergency may develop which does not meet the criteria for the declaration of a Defense Emergency or Air Defense Emergency, but in the interests of hemispheric and national security requires identification and control of all aircraft operating in the defense area, its coastal approaches or any parts of these areas. Under such conditions, the following actions, which are described in more detail in § 245.3, will be taken:

(i) The appropriate military authority will direct the FAA Air Route Traffic Control Center (ARTCC) concerned to apply Emergency Security Control of Air Traffic (ESCAT) in the affected area.

(ii) The ARTCC will advise all aircraft operating under its control and relay ESCAT implementation instructions to appropriate aeronautical facilities within its area that ESCAT rules have been applied and will then issue any special security instructions which are

required to identify, locate and ensure immediate control of all air traffic.

(iii) When ESCAT is applied, all aircraft must file IFR or DVFR flight plans and comply with the special security instructions issued. These instructions may require diverting or rerouting airborne flights and, using a system of security control authorizations, restrictions to proposed flights not already airborne.

(2) In the second situation, an emergency will have arisen which has resulted in the declaration of Defense Emergency outside the NORAD area, Air Defense Emergency within the NORAD area, or both of these. Under such conditions the following actions, described in detail in § 245.5, will be taken:

(i) The appropriate military authority will direct the FAA ARTCC concerned to implement Security Control of Air Traffic and Air Navigation Aids (SCATANA).

(ii) The ARTCC will relay SCATANA implementation to appropriate aeronautical facilities, will direct all VFR traffic under its control to land and file an IFR/DVFR flight plan, and will implement other directions specified by the appropriate military authority. These may include grounding, diversion and other restrictions to flight, plus the control of navigation aids.

(iii) Aircraft movements will be controlled by the use of the WATPL except for specific exceptions which will be controlled by using a Security Control Authorization.

(iv) The NORAD Region in its transmission of SCATANA air traffic control instructions to the ARTCC will clearly state which WATPL Numbers are authorized to operate. This information will also include any special authorizations for operations under Security Control Authorizations procedures (see § 245.8).

(e) *Amplifying Instructions—(1) Interference with normal air traffic.* This will be minimized, consistent with the requirement for operation of the air defense system.

(2) *Supplements for essential civil air operations.* Appropriate Unified-Specified commands, in collaboration with the FAA region directors will prepare annexes and agreements supplementing this plan for their area of responsibility. These supplements are to consider the special requirements of organized civil defense and disaster relief flights, agricultural and forest fire flights, border patrol flights and other essential civil air operations to the end that maximum use of these flights, consistent with air defense requirements will be made when SCATANA and ESCAT are in effect.

(3) *Vital military flights to have priority.* Military air operations vital to national defense are to be given priority over all other military and civil aircraft through procedural handling by the Air Traffic Control (ATC) systems as specified in coordinated agreements or authorizations for particular operations (see § 245.8).

(4) *One Military authority to direct ARTCCs.* In consonance with this plan,

appropriate military authorities will direct the extent of security control of air traffic and air navigation aids as required by the military situation. Such directions will be issued to appropriate FAA ARTCCs for implementation. The area of responsibility of the appropriate military authority may not be congruent with ARTCC boundaries, especially in the NORAD area where one ARTCC's boundaries may lie within two or more NORAD regions. To prevent confusion, agreements will be developed between appropriate military authorities and the ARTCCs concerned to ensure that each ARTCC receives direction from one military authority only. Unless operational requirements dictate otherwise, directed SCATANA actions will be consistent throughout an individual ARTCC area.

(5) *Tactical air movements plans.* To assist appropriate military authorities in making a preliminary assessment of wartime air traffic patterns and to simplify the transition to SCATANA operations, major commands are to coordinate the air traffic movement section of their Emergency War Plans (including dispersal and evacuation) and preposition flight plan information with appropriate military authorities. This authority is the NORAD region commander within the NORAD area of responsibility. Detailed requirements are explained in § 245.6.

(6) *Testing procedures.* To insure that implementing actions can be taken expeditiously, SCATANA tests will be conducted periodically in accordance with § 245.10.

(7) *Dispersal actions.* Prior to or subsequent to the declaration of a Defense Emergency or an Air Defense Emergency, there may be a requirement to disperse civil and military aircraft for their protection. If such dispersal plans are implemented when any part of this plan has been placed in effect, operations will be in accordance with the requirements of that portion of the SCATANA plan which is in effect. If any part of the SCATANA plan is ordered while dispersal is in progress, dispersal operations will be revised as required to comply with SCATANA.

(8) *Communications.* Direct communications are authorized between appropriate agencies and units for the purpose of coordinating and implementing the procedures in this plan.

(9) *Review and revision.* All concerned agencies are encouraged to continuously monitor this plan for adequacy and currency. Hq NORAD, acting as executive agent for DoD, will process and distribute administrative and organizational changes as they occur. However, this plan will be reviewed at least once every two years by FAA, FCC, and NORAD and reissued or changed as required. Recommended changes should be forwarded to:

Headquarters, North American Air Defense Command.

Ent Air Force Base, Colorado 80912.

(f) *Responsibilities.* (1) The Commander in Chief, NORAD will:

(i) Establish the military requirements for the Security Control of Air Traffic and Air Navigation Aids.

(ii) Coordinate with the Administrator, FAA, and the Defense Commissioner, FCC, as appropriate, regarding the establishment of procedures for implementation.

(2) The Administrator, FAA will:

(i) Promulgate the necessary FAA directives/plans, including special ATC procedures to implement this plan.

(ii) Coordinate with appropriate military authorities prior to the establishment of procedures for this plan.

(iii) Maintain liaison with appropriate NORAD region commanders through appropriate FAA offices.

(iv) Administer this plan in accordance with requirements established by the Commander in Chief, North American Air Defense Command.

(v) Collaborate with the FCC in establishing procedures for control of non-Federal NAVAIDS as defined in this plan.

(3) Federal Communications Commission will:

(i) Engage in rule making or other actions as appropriate in support of this plan.

(ii) Collaborate with the FAA in establishing procedures for control of non-Federal NAVAIDS as defined in this plan.

(4) Appropriate Military Authorities will:

(i) Direct the control of NAVAIDS (VOR, VORTAC, TACAN and LORAN) in their areas, as required.

(ii) Issue security control instructions to appropriate FAA region/ARTCC as necessary to insure performance of their air defense mission.

(iii) Maintain liaison with appropriate FAA regional directors and FCC Regional Liaison Officers.

(iv) Conduct tests of this plan in coordination with the FAA and FCC.

(v) Collaborate with the FAA regional director and FCC Regional Liaison Officer in making supplemental agreements to this plan.

(5) The FAA Regional Directors will:

(i) Assure FAA participation with the NORAD region commanders in the testing of this plan in the NORAD region areas.

(ii) Ensure dissemination of information and instructions concerning this plan within their areas of responsibility to civil and military aeronautical facilities and civil pilots.

(iii) Place in effect procedures outlined in this plan in accordance with requirements established by appropriate military authorities.

(iv) Assist appropriate military authorities in making supplemental agreements to this plan as may be required.

(6) The FCC Regional Liaison Officers will:

(i) Maintain liaison with the NORAD region commanders and FAA regional directors with regard to participation of FCC licensed aeronautical navigational aids in this plan.

(ii) Disseminate information and instructions concerning this plan to FCC licensed navigational aids affected by this plan.

(iii) Assist the NORAD region commanders in making such supplemental agreements to this plan as may be required.

(7) Commanders of Responsible Major Commands will:

(i) Ensure that the air traffic movement sections of the Emergency War Plans are coordinated with appropriate military authorities.

(ii) Ensure that flight plans in support of their coordinated Emergency War Plans are prepositioned with appropriate military authorities and the FAA. (See § 245.6.)

(iii) Identify specific NAVAIDS (VOR, VORTAC, TACAN and LORAN) which are essential to support contingency operations of assigned forces during implementation of SCATANA. The appropriate military authority will, except under actual emergency air defense situations, ensure that such air NAVAIDS within their area of responsibility remain in operation. Control of LORAN C will be in accordance with the JCS Master Navigation Plan (SM 525-XX). If actual emergency air defense situations require shutdown of these air NAVAIDS, the appropriate military authority will immediately notify the respective commander of the affected major command of the shutdown.

§ 245.4 Application of Emergency Security Control of Air Traffic (ESCAT).

(a) *Situation.* Emergency conditions exist which threaten national security but do not warrant the declaration of Defense Emergency, Air Defense Emergency or the control of air NAVAIDS.

(b) *Intention.* To provide for the most effective use of airspace in the affected area by:

(1) Ensuring that the position of all friendly air traffic is known and can be contacted by radio, if necessary.

(2) Controlling the density of air traffic operating in airspace critical to the conduct of air defense operations.

(c) *Application.* (1) The appropriate military authority will take the following actions:

(i) Direct the affected ARTCCs to apply ESCAT.

(ii) Specifically define the affected area.

(iii) Define the types of restrictions to be placed in effect. These may require the diverting and rerouting of traffic, the restricting of traffic to certain areas or corridors, and the initiating of a requirement to obtain a Security Control Authorization prior to take-off.

(iv) Within NORAD, the region commander will advise CINCNORAD who will then advise the Administrator, FAA and the Defense Commissioner, FCC, that ESCAT has been applied. Outside NORAD the appropriate military authority will advise the Administrator, FAA and the Defense Commissioner, FCC directly. When time is vital notification may occur after ESCAT has been implemented.

(v) Direct the appropriate ARTCCs to relax or terminate restrictions as the tactical situation allows.

(2) ARTCCs will take the following actions when directed to apply ESCAT:

(i) Disseminate ESCAT instructions and restrictions received to air traffic, civil and military air traffic control facilities, flight service stations and other appropriate aeronautical facilities.

(ii) Impose the restrictions on air traffic as directed by the appropriate military authority. The restrictions will automatically include instructions for all VFR traffic to land at the nearest suitable airport and file an IFR/DVFR flight plan.

(iii) Civil and military air traffic control facilities, and other aeronautical facilities will disseminate to air traffic and aircraft operators, and will implement, those instructions and restrictions received from the ARTCCs. When an IFR or DVFR flight plan has been filed, it will be examined by the appropriate aeronautical facility to ensure that it conforms with the ESCAT restrictions placed in effect by the appropriate military authority. When a flight plan does conform with the ESCAT restrictions, the appropriate aeronautical facility will grant a Security Control Authorization and the flight can then be given take-off clearance. When a flight plan does not conform with the ESCAT restrictions, a Security Control Authorization will not be given and take-off clearance will be denied.

(iv) The pilot in command will take the following actions when ESCAT is applied:

(a) If airborne, comply with the instructions issued by the appropriate aeronautical facility.

(b) If not airborne, file an IFR or DVFR flight plan prior to take-off and comply with the instructions issued by the appropriate aeronautical facility.

(c) Aircraft which are not radar equipped may not file an IFR or DVFR flight plan and will not be permitted to operate in areas affected by ESCAT.

§ 245.5 Implementation of Security Control of Air Traffic and Air Navigation Aids.

(a) *Situation.* Three types of situations may require the implementation of SCATANA.

(1) In the first of these, an emergency has arisen which has resulted in the declaration of an Air Defense Emergency within the NORAD area. Under this condition SCATANA will be automatically implemented.

(2) In the second situation, which applies only to NORAD, a NORAD region commander may direct implementation of SCATANA for his region when his region or an adjacent region is under attack and Air Defense Emergency has not yet been declared.

(3) In the third situation, an emergency has arisen which has resulted in the declaration of a Defense Emergency outside the NORAD area. Under this condition, SCATANA may be considered for implementation.

(b) *Intention.* To provide for the most effective use of airspace by aircraft of civil and military agencies by:

(1) Exercising security control of civil and military aircraft entering, departing or moving within the U.S. areas and their coastal approaches.

(2) Selectively limiting air traffic, consistent with air defense requirements.

(3) Exercising control over the following air navigation systems: VOR, VORTAC, TACAN and LORAN.

(c) *Implementation.* (1) The appropriate military authority will take the following actions:

(i) Direct the appropriate ARTCC to implement SCATANA.

(ii) Specify what restrictions are to be implemented, such as:

(a) Routing restrictions on flights entering or operating within appropriate portions of the defense area.

(b) Restrictions for the volume of air traffic within the defense area, using the WATPL (See § 245.8) and Security Control Authorizations.

(c) Altitude limitations on flight operations in selected areas.

(d) Special instructions concerning the control of accurate navigation aids which permit their use for friendly aircraft operations. This includes continued operation, as long as the actual air defense situation permits, of those air NAVAIDS essential to support other major command contingency operations.

(e) Confirmation or modification of previous instructions which may have been implemented with the application of ESCAT.

(iii) Revise or remove restrictions to the movement of air traffic and control of air navigation aids as the tactical situation permits.

(2) ARTCCs will take the following actions when directed to implement SCATANA:

(i) Disseminate SCATANA implementation instructions to civil and military air traffic control facilities and other appropriate aeronautical facilities.

(ii) Impose the restrictions on air traffic as directed by the appropriate military authority. The restrictions will automatically include instructions for all VFR traffic to land at the nearest suitable airport and file an IFR or DVFR flight plan. Landing, diversion or dispersal of traffic, when ordered, will be to airports outside of metropolitan areas or likely target complexes whenever possible. Instructions will be passed over normal air/ground/air radio channels.

(iii) As directed by the appropriate military authority, implement the control of VOR, VORTAC, TACAN, and LORAN as follows:

(a) Shut down the above navigation aids in accordance with the military command/FAA region supplemental agreements. These shall permit time to land/disperse airborne aircraft, and shall provide for the extension of such times when the air traffic situation dictates.

(b) Aids which require more than five minutes control time shall be shut down as soon as possible, except when directed otherwise by the appropriate military authority, or unless such aids are essen-

tial for the regulation and control of existing air traffic.

(c) Direct the control of air navigational aids to ensure that required aids, as indicated in flight plans, will be available for authorized aircraft flights.

(iv) When directed to reduce or remove SCATANA restrictions, authorize resumption of air traffic and operation of air navigation aids as specified by the appropriate military authority.

(3) Civil and military air traffic control facilities, and other appropriate aeronautical facilities will:

(i) Maintain the current SCATANA ACTION Form for that facility at appropriate operating positions.

(ii) When SCATANA is implemented or terminated, take the actions indicated on the facility's SCATANA ACTION Form.

(iii) Maintain current information on the status of restrictions imposed on air traffic.

(iv) Approve or disapprove filed flight plans in accordance with current instructions received from the ARTCCs. Approval will indicate that the flight is permitted under the WATPL priority currently in effect or that the flight has been granted a Security Control Authorization.

(v) Forward flight plans and approval requests to the ARTCC as required.

(vi) Disseminate instructions and restrictions to air traffic as directed by the ARTCCs.

(4) The pilot in command will conform to security control instructions as follows:

(i) IFR flights—comply with instructions received from the appropriate aeronautical facility.

(ii) VFR flights—land at the nearest suitable airport when so directed.

(iii) Aircraft on the ground—file an IFR or DVFR flight plan with the proper FAA facility and receive approval prior to departure.

§ 245.6 Tactical Air Movement Plans.

(a) *Situation.* In a situation when Emergency War plans and other contingency plans are being implemented, the large volume of tactical air traffic generated is likely to result in conflicting requirements for the available airspace. It is obvious that such conflicts should be minimized in order to prevent saturation of the air defense system, yet at the same time permit the orderly execution of the various contingency plans. To this end, it is essential that responsible military commanders coordinate fully with the appropriate military authorities responsible for air defense to ensure that conflicting situations can be resolved while emergency plans are still under development. The provisions of this section do not apply to Strategic Air Command (SAC) Emergency War Orders (EWOs) for which special coordination has been effected between SAC, NORAD and FAA agencies.

(b) *Intention.* To establish coordination procedures necessary to fulfill air defense and air traffic control requirements for the movement of tactical air

RULES AND REGULATIONS

traffic and identify specific air NAVAIDS which are essential to support contingency operations of major command forces during implementation of SCATANA.

(c) **Execution.** (1) Commanders of Major Commands (or "Responsible Military Commanders") are to ensure that:

(i) The air traffic movement sections of their Emergency War Plans (including dispersal, evacuation and other related contingency plans) and the specific air NAVAIDS essential to support contingency operations are fully coordinated during development with the appropriate military authority responsible for air defense. In the NORAD area of responsibility the authority is the NORAD region commander. When flights will transit more than one region, coordination must be effected with all of the region commanders involved. The NORAD region commander will effect necessary coordination on those tactical operations with the FAA through the Region Air Defense Liaison Officer (RADLO).

(ii) Subsequent to the coordination required in the paragraph (c) (1) (i) of this section, extracts of the air traffic movement section of their plans are to be passed to the appropriate military authorities. The extracts are to be prepared according to the format shown in § 245.7. In the NORAD area of responsibility the extracts are to be sent to the Commander of the NORAD region in which the flights originate.

(2) Responsible military authorities will:

(i) During the coordination phase, ensure that proposed aircraft movements do not conflict in time, altitude, route or any other respect with other planned movements. Potential conflicts are to be resolved through negotiations with the commands involved.

(ii) On receipt of the tactical air movement plan extracts, review again their impact on the overall air situation, incorporate the extracts into the unit SCATANA plan, as supplements, and distribute the extracts to appropriate military agencies, FAA regions and ARTCCs.

§ 245.7 Extract of Tactical Air Movement Plan.

(Unit)

(Office symbol)

Address

Project officer name and phone number
Mission name:
SCATANA -----
(NORAD region of flight plan origination)

(Number assigned by region)

(WATPL number)

(a) -----
(Call sign, or VCSL block/line of flight lead)

(b) -----
(Number and type aircraft/NAV equip)
(c) -----
(Departure base, ICAO 4 letters)
(d) -----
(Level-off point/elapsed time) (direct or airway route)

Points to penetration fix
(e) -----
(Destination/total time enroute) (ICAO 4 letters)
(f) "E" hour plus -----
(ETD)

(Interval planned between aircraft, cells, or flights)
Altitude Reservation Void on hour after last ETD.
(g) ----- KT.
(TAS)
MARSA within this flight.

(Military assumes responsibility for separation of aircraft)
All other call signs are: -----

§ 245.8 Wartime Air Traffic Priority List (WATPL).

(a) **Situation.** When SCATANA is implemented, a system of traffic priorities is required in order to ensure that optimum use is made of airspace, consistent with air defense requirements. This system will be the prime means of controlling the volume of air traffic. (The Security Control Authorization will be used as a supplement to WATPL.)

(b) **Intention.** To establish a WATPL for the movement of air traffic when SCATANA has been implemented, and to provide policy guidance for the practical application of the system. Priorities shall take precedence in the order listed and subdivisions within priorities are equal.

(c) **Wartime Air Traffic Priority List—**
(1) **Priority One.** (i) Aircraft engaged in active continental defense missions. This includes interceptors, antisubmarine aircraft and airborne early warning and control aircraft.

(ii) Retaliatory aircraft, including their direct support aircraft, executing EWO.

(iii) Airborne command elements which provide backup to command and control systems for the combat forces.

(iv) The President of the United States and Prime Minister of Canada and respective cabinet members essential to national security.

(2) **Priority Two.** (i) Forces being deployed for or in direct and immediate support of combat operations against the enemy to include the use of activated Civil Reserve Air Fleet (CRAF) aircraft as necessary.

(ii) SAC aircraft in direct and immediate support of EWO not included in priority one.

(iii) Search and rescue aircraft operating in support of these activities.

(3) **Priority Three.** (i) Forces being deployed in support of combat operations against the enemy.

(ii) Continental Air Reconnaissance for Damage Assessment (CARDA) missions for the support of immediate combat operations.

(iii) Search and rescue aircraft not included in priority two.

(iv) Flight inspection aircraft flights in connection with emergency restoration of airway and airport facilities in support of immediate combat operations.

(4) **Priority Four.** Dispersal of:

(i) Tactical military aircraft.

(ii) U.S. air carrier aircraft assigned to the War Air Service Program (WASP).

(iii) U.S. civil air carrier aircraft allocated to the CRAF Program.

(iv) FAA flight inspection aircraft.

(v) Foreign civil air carrier aircraft in the U.S. in accordance with specific international agreements.

(vi) Public aircraft assigned to FAA and other Federal agencies.

(5) **Priority Five.** (i) The air transport of military commanders, their representatives, and DoD sponsored key civilian personnel which is of the utmost importance to national security, or which will have an immediate effect upon combat operations of the Armed Forces.

(ii) Dispersal of nontactical military aircraft for their protection.

(iii) Public aircraft assigned to FAA and other Federal agencies.

(6) **Priority Six.** (i) Flight operations in accordance with approved Federal and State emergency plans (WASP and SARDA). U.S. civil air carrier flights will operate under the provisions of CAB Air Transport Mobilization Order ATM-1, "Route Authorizations and Operations," and the WASP. Foreign civil air carrier flights will operate in accordance with specific international agreements.

(ii) Other essential CARDA missions not included in (3) (ii) of this paragraph.

(iii) Flight inspection activity in connection with airway and airport facilities.

(7) **Priority Seven.** Other military flight operations.

(8) **Priority Eight.** All other flight operations not specifically listed above.

(d) **Policy for Application of WATPL.**
(1) The restrictions embodied in the WATPL will apply to all aircraft except those in receipt of a Security Control Authorization.

(2) Priority will be solely dependent on the nature of the aircraft's mission. Operational test flights will take the priority of the mission aircraft tested.

(3) The originator of a request for aircraft movement will be responsible for determining and verifying the appropriate priority in accordance with the list described above.

(4) The individual filing the flight plan will be responsible for including the priority number as determined by the originator of the request.

(5) During general war conditions, situations may occur which cannot be related to the WATPL. Aircraft emergencies and inbound international flights which have reached the point of no return, including foreign air carrier flights enroute to safe haven airports in accordance with specific international agree-

ments are examples of such situations. These incidents must be treated individually through coordination between ATC and appropriate military agencies in consideration of the urgency of the inflight situation and existing tactical military conditions.

(6) During periods other than general war, aircraft movements are handled as follows:

(i) Involvement in limited war or execution of contingency plans, to include JCS directed actions, immediately makes successful completion of such action a primary national objective. Therefore, aircraft movements in support of these actions will be afforded expeditious handling by the ATC system commensurate with the degree of urgency stated by the JCS to the FAA. When directing the execution of a contingency/limited war plan, or other JCS directed operation which is in pursuit of primary national objectives, the JCS will so advise the FAA (or appropriate Canadian authority if Canadian airspace is involved), requesting that aircraft operating in accordance with such plans be given preferential handling over all air traffic except active air defense missions and launch of the strategic alert force and supporting aircraft. Should contingency, limited warfare, or other JCS directed plans be executed concurrently by more than one operational commander, the JCS will state to the FAA (or appropriate Canadian authority when Canadian airspace is involved), and the military commanders concerned, the relative urgency of each operation and will resolve conflicts that may arise therefrom.

(ii) Assignment of reserved airspace to accommodate military air operations which, because of their objectives, cannot be conducted in accordance with routine ATC procedures will be based upon an order of precedence for the purpose of resolving mission conflicts in planning altitude reservations. This order of precedence is published in appropriate Joint Service Regulations and FAA documents.

(7) Priorities for air traffic clearances required under the SCATANA plan are not to be confused with civil priorities assigned to civil air carrier aircraft under the WASP priorities system, or to general aviation civil aircraft under the SARDA plan. WASP and SARDA priorities are designed to provide for controlled use of civil aircraft capability and capacity, and they have secondary significance when the WATPL for the movement of aircraft is in effect.

§ 245.9 Procedures for movement of air traffic.

(a) *Situation.* The primary instrument used by NORAD region commanders to control the volume of air traffic operating within their areas of responsibility is the WATPL for Movement of Air Traffic (§ 245.8).

(b) *Intention.* To establish procedures necessary for the expeditious movement of tactical air traffic during periods when SCATANA is in effect.

(c) *Execution.* (1) Tactical air traffic assigned a WATPL number of 1 or 2 will

not be delayed, diverted, rerouted, or landed by NORAD region commanders. However, NORAD region commanders may recommend that this traffic be rerouted to avoid battle or battle threatened areas.

(2) Air traffic assigned a WATPL number other than 1 or 2 may be delayed, diverted, rerouted, or landed by the NORAD region commander to prevent degradation of the air defense system.

(3) Aircraft being "recovered" will be expedited to home or alternate base, and "search and rescue" aircraft expedited on their missions; but such aircraft may be diverted to avoid battle areas or take off may be delayed to prevent saturation of airspace.

(4) Tactical air traffic will file IFR flight plans and comply with IFR procedures regardless of weather. The appropriate WATPL number will be entered in the Remarks section in the Aircraft Clearance Form DD 175. The WATPL number will be posted on ARTCC flight strips passed from one ARTCC to the next, and to the appropriate air defense control facilities.

(5) For mass military operations a single clearance form will be filed and ALTRAV procedures will be applied.

(6) Compliance with approved flight plan and position report requirements is of utmost importance for identification. Aircraft aborting or deviating from an approved flight plan will air-file a revised flight plan as soon as the necessity for such deviation is evident. Unauthorized deviations may preclude identification and result in engagement by defensive weapons.

(d) *Special operations.* (1) The volume of air traffic in areas critical to air defense can be controlled by means of the WATPL. In areas that are not critical to air defense or in areas of poor or no radar coverage, the appropriate military authority may wish to authorize additional specific flights which may not qualify for a high enough priority under the WATPL. When ESCAT or SCATANA have been implemented the appropriate military authority may authorize flights by granting a Security Control Authorization to the ARTCC or agency requesting the clearance.

(2) The following flights may require the granting of a Security Control Authorization prior to take off:

- (i) Organized civil defense missions.
- (ii) Disaster relief flights.
- (iii) Agricultural and forest fire flights.
- (iv) Border patrol flights.
- (v) SARDA flights prior to WATPL Six.

§ 245.10 SCATANA testing.

(a) *Situation.* To insure that SCATANA actions can be taken expeditiously, SCATANA tests will be conducted periodically.

(b) *Intention.* (1) SCATANA tests will be conducted in connection with Headquarters NORAD or NORAD region large-scale simulated exercises. Additional tests may be conducted by individ-

ual NORAD regions when test objectives are local in nature.

(2) All Federal facilities responsible for SCATANA actions will participate in SCATANA tests, except where such participation will involve the safety of aircraft. Non-federal civil aeronautical facilities may be requested to participate.

(c) *Execution.* (1) During SCATANA tests, all actions will be simulated.

(i) Aircraft will not be grounded or diverted.

(ii) Air navigation aids will not be shut down.

(iii) Test messages will not be transmitted over air/ground/air radio frequencies.

(iv) Radio communications will not be interrupted.

(2) For NORAD Exercises.

(i) If ESCAT is applied by CINC NORAD, this fact will be passed to the Region SCATANA Officer in plain language. Region SCATANA officers may call or simulate calling the appropriate ARTCC using the following statement:

This is a NORAD exercise. Apply ESCAT. ARTCC acknowledge and take no further action.

(ii) If ESCAT is applied or SCATANA is implemented by the Region Commander, the Region SCATANA Officer may simulate the call or may make an actual call using the format shown in paragraph (c) (2) (i) of this section, and inserting ESCAT or SCATANA as appropriate.

(3) *SCATANA Test.* This is a test conducted by ARTCC's in which SCATANA participants conduct simulated notification actions required by the plan. Timing of the test will be at the discretion of the ARTCC. A narrative summary of each test is to be prepared by the ARTCC MLO and copies sent to appropriate NORAD Region SCATANA Officer, FAA Region MLO, FAA NORAD RDLO and FAA NORAD Hq LO. FAA NORAD Hq LO will be responsible for reviewing the SCATANA tests reports and recommending changes to the testing procedures to Hq NORAD as deemed appropriate. The SCATANA tests will be conducted at least quarterly.

(4) *SCATANA Diversion Simulation.* This is a test designed to exercise ARTCC personnel in making decisions on aircraft diversion which would be required under actual implementation of the plan. The timing of the simulation will be pre-coordinated between the ARTCCs and the NORAD Region SCATANA Officer. The guideline timeframe for the area recovery of all non-essential air traffic in actual operations has been fixed at an optimum of twenty minutes; diversion simulation exercises should operate on a similar timeframe. Tests will be conducted at least semi-annually.

(i) The NORAD region will provide charts to the ARTCC for the recording of simulated aircraft diversions. The completed charts will be passed to the NORAD Region SCATANA Officer for analysis. The NORAD Region SCATANA Officer will brief region staffs on the results of the exercise and FAA representation will be invited.

(ii) The charts will record the position of all live aircraft on IFR clearances in the ARTCC's area at the time ESCAT was simulated, the position of all aircraft when SCATANA was simulated, and will show the airports to which simulated diversions were made.

§ 245.11 Authentication.

Authentication is not required between NORAD Region Control Centers and ARTCCs for the implementation of SCATANA.

Approved:

Dated: August 8, 1975.

W. P. CLEMENTS, Jr.,
Secretary of Defense, Deputy.

Dated: September 26, 1975.

JOHN W. BARNUM,
Secretary of Transportation, Deputy.

Dated: November 18, 1975.

CHARLOTTE T. REID,
Defense Commissioner, Federal
Communications Commission.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptroller).

MARCH 1, 1976.

[FR Doc. 76-6204 Filed 3-3-76; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL

[CGD-74-179]

PART 25—CLAIMS

Administrative Processing of Claims

• The purpose of this amendment is to revise Part 25 of Subchapter A. •

Part 25 presently consists of Subparts A through G pertaining to the administrative processing of claims against the United States arising out of Coast Guard activities, and Subparts L through N pertaining to the administrative processing of claims on behalf of the Coast Guard.

This document includes Subparts A through N of the revised Part 25. Subpart A contains general regulations for the administrative processing of claims arising out of and related to Coast Guard activities. Subparts B through J implement various statutes pertaining to claims against the United States, its agents and employees, and delegate certain authority to the Chief Counsel and other designated Coast Guard officers. Subparts K through M are reserved for other claims regulations.

Subparts N through P implement various statutes pertaining to claims on behalf of the United States and delegate certain authority to the Chief Counsel and other designated Coast Guard officers.

Since this amendment relates to agency procedure, it is exempted from notice of proposed rule making and public procedure thereon by 5 U.S.C. 553(b), and it may be made effective in less than 30 days after publication in the FEDERAL

REGISTER, because 5 U.S.C. 553(d) does not apply.

Accordingly, Part 25 of Title 33, Code of Federal Regulations, is revised to read as follows:

Subpart A—General

Sec.	
25.101	Purpose.
25.103	Information and assistance.
25.105	Definitions.
25.107	Who may present claims.
25.109	Subrogation.
25.111	Action by claimant.
25.113	Determination of compensation for damage or injury.
25.115	Proof of damage.
25.117	Effect of other payment to claimant.
25.119	Settlement and notice to claimant.
25.121	Appeals.
25.123	Reconsideration.
25.125	Acceptance of offer of settlement.
25.127	Redelegation of authority.
25.129	Multiple claims.
25.131	Cross-servicing of claims in foreign countries.

Subpart B—Federal Tort Claims

25.201	Scope.
25.203	Claims payable.
25.205	Claims not payable.
25.207	Time limitations on claims.
25.209	Notification to claimant of action on claim.
25.211	Payment of claims.
25.213	Delegation of authority.
25.215	Indemnity or contribution.
25.217	Attorneys fees.

Subpart C—Military Claims

25.301	Scope.
25.303	Claims payable.
25.305	Claims not payable.
25.307	Time limitation on claims.
25.309	Procedure.
25.311	Delegation of authority.

Subpart D—Claims Arising in Foreign Countries

25.401	Scope.
25.403	Proper claimants.
25.405	Claimants excluded.
25.407	Claims payable.
25.409	Claims not payable.
25.411	Time limitations on claims.
25.413	Notification to claimant of action on claim.
25.415	Delegation of authority.

Subpart E—Non-Scope Claims

25.501	Scope.
25.503	Claims payable.
25.505	Claims not payable.
25.507	Time limitations on claims.
25.509	Notification to claimant of action on claim.
25.511	Delegation of authority.

Subpart F—Admiralty Claims

25.601	Scope.
25.603	Claims payable.
25.605	Claims not payable.
25.607	Time limitation on claim.
25.609	Notification to claimant of action on claim.
25.611	Delegation of authority.

Subpart G—Military Personnel and Civilian Employees' Claims

25.701	Scope.
25.703	Claims payable.
25.705	Claims not payable.
25.707	Time limitations on claims.
25.709	Procedure.
25.711	Replacement in kind.
25.713	Delegation of authority.
25.715	Attorneys' fees.

Subpart H—Auxiliary Claims

Sec.	
25.801	Scope.
25.803	Claims payable.
25.805	Claims not payable.
25.807	Time limitation on claims.
25.809	Procedure.
25.811	Delegation of authority.

Subpart I—Article 139 Uniform Code of Military Justice (UCMJ)

25.901	Scope.
25.903	Claims payable.
25.905	Claims not payable.
25.907	Time limitation on claims.
25.909	Limitation on payment of claims.
25.911	Authority.
25.913	Notification to claimant of action on claim.
25.915	Payment of claims.

Subpart J—Pollution Removal Damage Claims

25.1001	Scope.
25.1003	Claims payable.
25.1005	Claims not payable.
25.1007	Delegation of authority.

[Subparts K, L, M Reserved]

Subpart N—Property Damage Claims on Behalf of the Coast Guard

25.1401	Scope.
25.1403	Aids to Navigation.
25.1405	Other property belonging to the Coast Guard.
25.1407	Private repair or replacement.
25.1409	Delegation of authority.
25.1411	Settlement agreement.

Subpart O—Admiralty Claims on Behalf of the Coast Guard

25.1501	Scope.
25.1503	Delegation of authority.
25.1505	Release.

Subpart P—Federal Claims Collection Act

25.1601	Scope.
25.1603	Single claim.
25.1605	Direct private payments.
25.1607	Release.
25.1609	Delegation of authority.
25.1611	Exceptions to delegated authority.
25.1613	Referral.

Subpart A—General

AUTHORITY: 14 USC 633; 49 CFR 1-45 (a) (2).

§ 25.101 Purpose.

The regulations in this subpart prescribe the administrative procedure for the settlement of claims, other than contract claims, by and against the United States Coast Guard, including claims arising from acts or omissions of employees of nonappropriated fund activities within the United States, its territories, and possessions.

§ 25.103 Information and assistance.

Any person who desires to file a claim against the United States arising out of the activities of the Coast Guard may obtain information and assistance from Commandant (G-LCL), U.S. Coast Guard, Washington, DC or from the Commander of any Coast Guard District.

§ 25.105 Definitions.

(a) *Accrues.* A claim accrues on the date on which the alleged wrongful act or omission results in injury or damage for which the claim is made. In medical malpractice cases, however, a claim usually accrues when the claimant discovers, or in the exercise of reasonable diligence should have discovered the act

or acts constituting the alleged malpractice.

(b) *Claim.* A written demand for the payment of a specified sum of money, other than for ordinary obligations incurred for services, supplies, or equipment.

§ 25.107 Who may present claims.

(a) A claim for property loss or damage may be presented by anyone having an interest in the property, or in his name by a duly authorized agent, legal representative, or survivor, or by a subrogee, unless a subrogated interest is barred under § 25.109(a).

(b) A claim for personal injury may be presented by the injured person or in his name by a duly authorized agent or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim under local law.

(d) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses for which the claim is made.

(e) A claim presented by an agent or legal representative must be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

(f) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they must be combined in one claim.

§ 25.109 Subrogation.

(a) A subrogated claim is not cognizable under Subparts D, G, H, or I.

(b) The claims of a subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute a single claim and thus the total of such claims may not exceed the monetary jurisdictions of the settlement authority. If the total of the combined claims exceeds, or is expected to exceed settlement limits, neither claim will be considered for payment, but the claim file will be forwarded to an appropriate settlement authority. Care will be exercised to avoid the splitting of subrogated claims through improper settlement procedures.

(c) A subrogor and a subrogee may file a claim jointly or individually. A fully subrogated claim is payable only to the subrogee. A joint claim must be asserted in the names of and signed by the parties in interest, and the approved payment will be made by a check to the joint claimants and sent to the subrogee. If separate claims are filed, payment will be made by check issued to each claimant to the extent of his undisputed interest.

(d) Each claimant must, as a part of his claim, make a written disclosure concerning insurance coverage as to—

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and

(5) Whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(e) Each subrogee must substantiate his interest or right to file a claim by appropriate documentary evidence and must support his claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the Government or conclusive evidence of the amount of damages. The settlement authority makes an independent determination on the issues of fact and law based upon the evidence of record.

§ 25.111 Action by claimant.

(a) *Form of claim.* The claimant must submit his claim on authorized official forms whenever practicable. The forms are available from Commandant (G-LCL), U.S. Coast Guard, Washington, DC or from the Commander of any Coast Guard District.

(b) *Signatures.* The claim and all other papers must be signed in ink by the claimant or by his duly authorized agent or legal representative. His signature must include the first name, middle initial, and surname. A married woman must sign her claim by her given name, e.g., "Mary A. Doe," rather than "Mrs. John Doe."

(c) *Presentation.* The claim must be presented to the commanding officer of the Coast Guard unit involved, to a Coast Guard unit convenient to the claimant, or to Chief, Claims and Litigation Division, Office of Chief Counsel, United States Coast Guard, Washington, DC 20590. In a foreign country, where there is no Coast Guard unit, the claim will be treated as if presented to the Coast Guard if it is submitted to any attaché of the U.S. Armed Forces or to the commanding officer of any unit of the U.S. Armed Forces.

§ 25.113 Determination of compensation for damage or injury.

Unless otherwise prescribed by local law, statute, or implementing regulations, compensation for damage is determined in accordance with the following principles:

(a) *For damage to or loss of property:*

(1) If the property has been or can be economically repaired, the measure of damages is the actual or estimated net cost of the repairs necessary to restore the property to substantially the condition which existed immediately before the incident. Damages so determined may not, however, exceed the value of the property immediately prior to the incident less the value thereof immediately after the incident. To determine the actual or estimated net cost of repairs, the value of any salvaged parts or materials

and the amount of any net appreciation in value (betterment) effected through the repair is deducted from the actual or estimated gross cost of repairs, and the amount of any net depreciation in the value of the property is added to such gross cost of repairs, provided such adjustments are sufficiently substantial in amount to warrant consideration. All cost of repair awards are based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by two or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(2) If the property cannot be economically repaired, the measure of damages is the value of the property immediately before the incident less the value thereof immediately after the incident. All estimates of value should be made, if possible, by two or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost or destroyed.

(3) Loss of use of damaged property which is economically repairable may, if claimed, be included to the extent of the reasonable expense actually incurred for appropriate substitute property, but only for such period as is reasonably necessary for repairs, and provided that idle substitute property of the claimant was not employed. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but is not obtained and used by the claimant, loss of use is normally not payable.

(b) *For personal injury or death:*

(1) Damages may include, but are not limited to, reasonable medical, hospital or burial expenses necessarily incurred; loss of income; expenses incurred as a result of loss of services; physical disability; anticipated medical expenses; physical disfigurement; and pain and suffering.

(c) Punitive damages, interest, court costs, attorney's fees, bail, or other similar charges are not allowable as elements of damage.

§ 25.115 Proof of damage.

Independent evidence must be submitted by the claimant to support his claim. This evidence should include, if available, statements of witnesses, accident or casualty reports, photographs and drawings, and statement of loss to insurers. In addition, such evidence must consist, where applicable, of the following:

(a) *For personal injury or death:*

(1) Itemized medical, hospital, and burial bills.

(2) A written report by the attending physician setting forth the nature and extent of the injury and the treatment, the necessity and reasonableness of the various medical expenses incurred, loss of time from employment, the duration and extent of pain and suffering and of any disability or physical disfigurement involved, and a current prognosis, including past, present, and future reduction of earning capacity, and any antici-

pated medical expenses. The report should also include any past medical history of the claimant relevant to the particular injury alleged, and should be submitted by the claimant in addition to all hospital records or other documentation of a medical nature arising from either this injury or any relevant past injury.

(3) Loss of time and earnings should be supported by a written certified statement of the claimant's employer stating the claimant's age, occupation, hours of employment, hourly rate of pay or weekly salary, time lost from work as a result of the incident, and his actual period of employment, full-time or part-time, and any effect of the injury upon such employment.

(4) If necessary, the claimant may, in a personal injury case, and with his consent, be required to be examined by an independent medical facility or physician. The settlement authority makes mutually convenient arrangement for such an examination and bears the costs thereof.

(5) Physical disfigurement, pain and suffering, loss of services or income sustained by the claimant must be supported by a statement of costs or loss incurred.

(b) For loss of, or damage to, property:

(1) For each particular and distinct item of loss the claimant must submit two itemized statements or estimates of the cost of repairs or replacement, each supported by an appraisal or survey report signed by a disinterested and competent person familiar with the subject matter. The cost of appraisals or estimates are includable as elements of damage.

(i) A survey or appraisal must be performed as soon as practicable, and, whenever possible, unless waived in writing, must occur with all interests represented.

(ii) If the item is so severely damaged that it cannot be economically repaired or used, its value before and after the incident must be stated by such surveyor or appraiser.

(2) Whenever a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished, where applicable, and supported by competent evidence:

(i) The date the vessel or property was damaged.

(ii) The name and location of the repair facility.

(iii) The beginning and ending dates of repairs.

(iv) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof.

(v) The date and place where the vessel or property was returned to service after completion of repairs, and an explanation, if applicable, of any delay.

(vi) Whether or not a substitute vessel or property was utilized by the claimant during the time of repair, and if so, an explanation as to the necessity of same, the costs incurred, the time of use and nature thereof, and any costs incurred that would have been similarly

incurred by the claimant in utilization of his own property.

(vii) Whether or not during the course of undergoing repairs the vessel or property would have been employed, and an explanation submitted showing the identity of the person who offered that employment, the terms of the offer, time of prospective service, and rate of compensation.

(viii) If the vessel or property was under charter or hire at the time of damage, was otherwise employed, or would have been employed, the claimant must submit a statement of operating expenses that were, or would have been, incurred. This must include wages and all bonuses which would have been paid during the period of employment, the value of fuel which would have been consumed during the period of employment, the value of consumable stores which would have been consumed during the period of employment, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tollage, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

§ 25.117 Effect of other payments to claimant.

(a) The total amount to which the claimant and his subrogees, may be entitled is normally computed as follows:

(1) The total of the loss or damage suffered.

(2) Less any payment the claimant has received from the following sources:

(i) The U.S. employee who caused the incident.

(ii) The U.S. employee's insurer.

(iii) Any person or agency in a surety relationship with the U.S. employee.

(iv) Any joint tort-feasor or his insurer.

(3) No deduction is made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

(b) Where a payment has been made to the claimant by his insurer or other subrogee, or under workmen's compensation insurance coverage as to which subrogated interests are allowable, the payment based on the total damages is apportioned as their separate interests shall appear (§ 25.111).

§ 25.119 Settlement and notice to claimant.

(a) *Approval of full amount claimed.* When the settlement authority has determined that a claim should be approved in full, he certifies the claim for payment to the appropriate disbursing officer, forwarding the claim and attachments. If the time involved in settling the claim has been extensive, he notifies the claimant of the action taken on the claim.

(b) *Approval of less than full amount.* When the claim is determined to be meritorious in part the settlement authority—

(1) Notifies the claimant in writing of his determination;

(2) Obtains from the claimant written acceptance and release utilizing SF-1145 (Voucher for Payment), modified as appropriate, or a claims settlement agreement for payment of the claim in the reduced amount. Normally this requirement does not apply to claims under Subparts G and H; and

(3) Advises the claimant, in the event he does not desire to accept the award, to reply within 45 days of the date of the settlement offer giving his reasons for rejection.

(c) Nonacceptance of offer of settlement.

(1) Except upon a showing of good cause for nonacceptance of a proposed settlement within 45 days of the date of the settlement offer, the nonacceptance constitutes a rejection. Rejection by a claimant of an offer of settlement renders the offer void.

(2) When a claimant rejects an offer of a reduced amount or fails to reply thereto within 45 days of the date of the settlement offer, the settlement authority reviews the matter and if justified, makes further efforts to settle the claim. If further efforts to settle are unproductive, he notifies the claimant that his claim has been disallowed for the reason that the amount demanded is excessive.

§ 25.121 Appeals.

There is no appeal to higher authority following the final denial of a claim by a settlement authority except under the procedures contained in Subpart C.

§ 25.123 Reconsideration.

(a) A settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. Even in the absence of such a request, a settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part, even where a settlement agreement has been executed, when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he modifies the action and, if appropriate, makes a supplemental payment. The basis for a change in action is stated in a memorandum included in the file.

(b) A request for reconsideration should include the legal or factual grounds for the relief requested. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the settlement authority reconsiders the claim and attempts to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the claimant is notified that the relief requested cannot be granted.

(c) For the effect of reconsideration under the Federal Tort Claims Act see 28 CFR 14.

§ 25.125 Acceptance of offer of settlement.

The acceptance by a claimant of an offer of settlement is final and conclusive for all purposes and constitutes a complete release of any claim against the United States and against the military or civilian personnel of the Coast Guard whose act or omission gave rise to the claim.

§ 25.127 Redlegation of authority.

The authority delegated in this Part to District Commanders and Commanding Officers of certain Headquarters Units may, unless otherwise limited, be redelegated, in whole or in part, by a District Commander to his Chief of Staff and Legal Officer, and by a Commanding Officer of a Headquarters Unit to his Executive Officer and Legal Officer. No further redelegation is authorized.

§ 25.129 Multiple claims.

When more than one claim arises out of the same incident and the total amount of the claims exceeds the monetary jurisdiction delegated to the settlement authority, all of the claims arising from that incident are forwarded to the Chief, Claims and Litigation Division, Office of Chief Counsel, with the settlement authority's recommendations for disposition.

§ 25.131 Cross-servicing of claims in foreign countries.

(a) The Department of Defense has assigned single-service responsibility for the settlement of claims in certain areas arising under the Foreign Claims Act, the Military Claims Act, the Nonscope of Employment Claims Act, and the Federal Claims Collection Act.

(b) In a country where single-service claims responsibility has been assigned, claims against the United States cognizable under the acts referred to in paragraph (a) of this section are processed and settled by the service assigned responsibility.

Subpart B—Federal Tort Claims

Authority: 28 USC 2672; 28 CFR 14.11; 49 CFR 1.45(a) (2).

§ 25.201 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States under the Federal Tort Claims Act based on death, personal injury, or damage to or loss of property. Should there be a conflict between the provisions of this subpart and the provisions of the Department of Justice regulations, in 28 CFR Part 14, the latter govern.

§ 25.203 Claims payable.

Claims for death, personal injury, or damage to or loss of real or personal property are payable when the injury or damage is caused by a negligent or wrongful act or omission of military personnel or a civilian employee of the Coast

Guard while acting within the scope of their employment under circumstances in which the United States, if a private person, would be liable to the claimant under the law of the place where the act or omission occurred.

§ 25.205 Claims not payable.

A claim is not payable if it—
(a) Is based upon an act or omission of military personnel or a civilian employee, exercising due care, in the execution of a statute or regulation, whether or not the statute or regulation is valid;

(b) Is based on the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty, whether or not the discretion is abused;

(c) Arises out of the loss, miscarriage, or negligent transmission of letters or other postal matter;

(d) Arises with respect to the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer;

(e) Is cognizable under the Suits in Admiralty Act or the Public Vessels Act;

(f) Arises out of an act or omission of any employee of the Government in administering the provisions of the Trading with the Enemy Act;

(g) Is for death, personal injury, or damage to or loss of real or personal property, of a member of the Armed Forces of the United States incurred incident to service;

(h) Arises out of assault, battery, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights, unless committed by Coast Guardsmen performing law enforcement duties;

(i) Arises out of combat activities of the Coast Guard during time of war;

(j) Arises in a foreign country;

(k) Is for taking of private property by trespass implied under local law or of a type contemplated by the Fifth Amendment to the United States Constitution; or

(l) Is for disability or death of a civilian employee of the United States for whom benefits are provided by the Federal Employees Compensation Act.

§ 25.207 Time limitations on claims.

(a) A claim may be settled only if presented in writing within two years after it accrues.

(b) The two year statute of limitations is not tolled until the Coast Guard receives from a claimant, his duly authorized agent or legal representative, an executed Standard Form 95 or written notification of an incident, together with a claim for money damages in a sum certain, for death, personal injury, or damage to or loss of real or personal property. When a claim is received by a Coast Guard command which does not have settlement authority over the claim, it is transmitted to the proper settlement authority without delay.

§ 25.209 Notification to claimant of action on claim.

(a) If a claim is determined to be meritorious, a written acceptance and release or a claim settlement agreement must be signed by the claimant before payment, unless the claim has been approved for payment in full as presented.

(b) Upon final denial of a claim, the settlement authority informs the claimant of the disposition of his claim by certified or registered mail. Notification of final denial includes a statement that, if the claimant does not accept or is dissatisfied with the action, he may institute suit against the United States and that if he does so he must institute it within six months after the date of mailing of the notice of final denial.

(c) Failure of a settlement authority to take final action on a claim within six months after the date of receipt of the claim by the Coast Guard may be treated by the claimant as a final denial for the purpose of filing suit.

§ 25.211 Payment of claims.

Once the amount to be paid has been agreed upon, a check is normally forwarded to the claimant in 30 days. If a claimant is represented by an attorney, both the claimant and his attorney are designated as payees on the check delivered to the claimant's attorney.

§ 25.213 Delegation of authority.

(a) Subject to written approval of the Attorney General of the United States of any payment in excess of \$25,000, the Chief Counsel may deny or settle and authorize payment of claims in any amount.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel, may deny claims not exceeding \$10,000 and may settle and authorize payment of claims in which the amount of payment does not exceed \$10,000.

(c) The following officers may deny claims not exceeding \$5,000 and may settle and authorize payment of claims in which the amount of payment does not exceed \$5,000:

(1) The Commander of each Coast Guard District.

(2) The Superintendent, U.S. Coast Guard Academy.

(3) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet.

§ 25.215 Indemnity or contribution.

(a) *Sought by the United States.* If a claim arises under circumstances in which the United States is entitled to contribution or indemnity under a contract or the applicable law governing joint tort-feasors, the third party is notified of the claim, and is requested to honor its obligation to the United States or to accept its share of joint liability. If the issue of indemnity or contribution is not satisfactorily adjusted, a claim is settled only after consultation with the Department of Justice as provided in 28 CFR § 14.7.

(b) *Sought from the United States.* Claims for indemnity or contribution

from the United States are settled under this subpart if the incident giving rise to liability and the claim is otherwise cognizable under this subpart.

§ 25.217 Attorneys' fees.

Attorneys' fees for any claim settled under this subpart are limited to not more than 20 percent of the amount paid in settlement.

Subpart C—Military Claims

AUTHORITY: 10 U.S.C. 2733; 49 CFR 1.45(a)(2).

§ 25.301 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States under the Military Claims Act for death, personal injury, or damage to or loss of property caused by military personnel or civilian employees of the Coast Guard acting within the scope of their employment, or otherwise caused by the non-combat activities of the Coast Guard.

§ 25.303 Claims payable.

(a) A claim arising at any place caused either by noncombat activities of the Coast Guard or by military personnel or civilian employees of the Coast Guard acting within the scope of employment, whether or not negligence is shown, is payable for—

(1) Damage to or loss of real property, including damage or loss incident to the use and occupancy of real property by the Coast Guard;

(2) Damage to or loss of personal property, including damage to or loss of property bailed to the Coast Guard;

(3) Death or personal injury.

(b) A claim arising at any place is payable for damage to or loss of registered or insured mail damaged, lost, or destroyed by the criminal act of military personnel or civilian employees of the Coast Guard while the mail is in the possession of the Coast Guard.

§ 25.305 Claims not payable.

A claim is not payable if it—

(a) Results directly or indirectly from action by the enemy, or by U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict;

(b) Results wholly or partly from the negligence or wrongful act of the claimant or his agent, unless comparative negligence is applicable under local law;

(c) Results from a specific risk which the claimant expressly assumed in writing before the incident giving rise to the claim;

(d) Is for personal injury or death of a member or civilian employee of the Armed Forces of the United States whose death or injury was incident to service;

(e) Is for personal injury or death of a civilian employee covered by the Federal Employees' Compensation Act or Longshoreman's and Harbor Workers' Compensation Act, as made applicable to certain employees of non-appropri-

ated fund instrumentalities of the Armed Forces under 5 U.S.C. §§ 8171-8173;

(f) Is cognizable under Subparts B, D, and G of this Part;

(g) Is purely contractual in nature;

(h) Is for damage to or loss of property voluntarily bailed to the Coast Guard for the sole benefit of the bailor, e.g., jewelry and money bailed for safekeeping;

(i) Is for rent, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the Coast Guard except as provided in § 503(a)(1) of this subpart;

(j) Is for the taking of private property by trespass except for actual physical damage; or

(k) Is made by a national, or a corporation controlled by nationals, of a country at war or engaged in armed conflict with the United States, or of any country allied with such enemy country unless the command exercising claims authority over the incident determines that the claimant is, and at the time of the incident was, friendly to the United States. However, a prisoner of war or an interned enemy alien is not excluded as to a claim for damage to or loss of personal property in the custody of the Government otherwise payable under this subpart.

§ 25.307 Time limitation on claims.

(a) A claim may be settled only if presented in writing within two years after it accrues, except that if it accrues in time of war or armed conflict or if war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not more than two years after the termination of the war or armed conflict.

(b) For the purposes of this section, a war or armed conflict is one in which an Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict will be as established by concurrent resolution of Congress or by determination of the President.

§ 25.309 Procedure.

(a) If a claim is determined to be meritorious in any amount a written acceptance and release or a claim settlement agreement must be signed by the claimant before payment.

(b) Upon disapproval of a claim, in whole or in part, the settlement authority notifies the claimant in writing of the action taken and reasons therefor.

(c) Where a claim not exceeding \$5,000 is denied in full, or where a claim is only approved in part and the amount to be paid does not exceed \$5,000, the letter of notification informs the claimant that—

(1) He may submit an appeal through the authority disapproving the claim;

(2) No particular form for appeal is prescribed;

(3) The ground for appeal should be set forth fully; and

(4) The appeal must be postmarked within 45 days after the date of notice of disapproval of the claim.

(d) Upon receipt of an appeal submitted under paragraph (c) of this section, the settlement authority examines and forwards it with the related file and opinions and recommendations, to the Chief Counsel. The settlement authority may, however, treat the appeal as a request for reconsideration, in which case the processing of the appeal may be delayed pending the outcome of further efforts by the settlement authority to settle the claim. If proper settlement cannot be reached, the appeal is forwarded to the Chief Counsel.

§ 25.311 Delegation of authority.

(a) The Chief Counsel may deny any claim and may settle and authorize payment of claims in which the amount of payment does not exceed \$25,000. If the Chief Counsel determines that a claim is meritorious in an amount in excess of \$25,000 he may authorize payment of \$25,000, without the release or settlement agreement required in § 25.309, and report the excess to Congress for its consideration.

(b) Subject to appeal to the Chief Counsel, the following officers may deny claims not exceeding \$5,000 and may settle and authorize payment of claims in which the amount of payment does not exceed \$5,000:

(1) The Chief, Claims and Litigation Division, Office of Chief Counsel.

(2) The Commander of each Coast Guard District.

(3) The Superintendent, U.S. Coast Guard Academy.

(4) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet.

Subpart D—Claims Arising in Foreign Countries

AUTHORITY: 10 USC 2734; 49 CFR 1.45(a)(2).

§ 25.401 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States by a foreign country, a political subdivision or inhabitant thereof, for death, personal injury or damage to or loss of property occurring therein, caused by the non-combat activities of the Coast Guard, or a military member or civilian employee of the Coast Guard.

§ 25.403 Proper claimants.

(a) The claimant, or the decedent in a death case, must have been an inhabitant of a foreign country at the time of the incident giving rise to the claim and must not be otherwise excluded in this subpart. It is not necessary that a claimant be a citizen of, or have his legal domicile in, the foreign country to establish that he is an inhabitant thereof.

(b) A corporation or other organization doing business in a foreign country on a permanent basis may qualify as a proper claimant although organized under U.S. law.

(c) The government of a foreign country or a political subdivision thereof is a proper claimant unless waiver provisions of applicable international agreements exclude such claims.

§ 25.405 Claimants excluded.

The following claimants are excluded:
(a) U.S. military personnel and civilian employees of the United States Government or its agencies and instrumentalities and their dependents, who are in a foreign country primarily because of their own or their sponsor's duty status.

(b) Other citizens of the United States, its territories, commonwealths, or possessions, unless they have resided in the country in which the incident occurred for more than 90 consecutive days immediately preceding the incident.

§ 25.407 Claims payable.

(a) A claim is payable for—
(1) Death or personal injury;
(2) Damage to or loss of real or personal property; or
(3) Solatium payments when dictated by local custom.

(b) A claim is payable if it arose out of a noncombat activity of the Coast Guard or was caused by—

(1) Military personnel of the Coast Guard;

(2) Civilian employees of the Coast Guard who are United States citizens and who are employed in the country in which the incident occurred; or

(3) Civilian employees of the Coast Guard who are employed in the country in which the incident occurred; however, if the employee is a national of that country, he must be acting within the scope of his employment when the incident occurred.

(c) The fact that the act giving rise to a claim may constitute a crime does not, by itself, bar relief.

(d) Local law or custom pertaining to contributory or comparative negligence, and to joint tortfeasors, are applied to the extent practicable.

§ 25.409 Claims not payable.

A claim is not payable if it—

(a) Results from action by an enemy or results directly or indirectly from an act of the Armed Forces of the United States in combat;

(b) Is purely contractual in nature;

(c) Is governed by the Federal Employees' Compensation Act, the Longshoremen's and Harbor Workers' Compensation Act, or any other system of compensation where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee;

(d) Is one for which a foreign country is responsible under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, or other similar treaty agreement;

(e) Arises from private or domestic obligations as distinguished from governmental transactions;

(f) Is a bastardy claim;

(g) Involves a patent or copyright infringement; or

(h) Is a subrogated claim.

§ 25.411 Time limitations on claims.

A claim may be settled only if presented in writing, stated in the currency of the country where the incident occurred, within two years after it accrues.

§ 25.413 Notification to claimant of action on claim.

If a claim is determined to be meritorious in any amount, a written acceptance and release or a claim settlement agreement must be signed by the claimant before payment.

§ 25.415 Delegation of authority.

(a) The authority to appoint foreign claims commissions is delegated to the following:

(1) The Chief Counsel may appoint foreign claims commissions to consider claims in any amount.

(2) The Commander of each Coast Guard District may appoint foreign claims commissions to consider claims not in excess of \$5,000.

(3) The Commanding Officers of Coast Guard Activities Europe and Coast Guard Activities Guam, may appoint foreign claims commissions to consider claims not in excess of \$2,500.

(4) The Commanding Officer of each Coast Guard Section may appoint foreign claims commissions to consider claims not in excess of \$1,000.

(b) The authority to settle and pay foreign claims is delegated to the following:

(1) Any foreign claims commission may, without any other approval, settle and pay a claim when the amount of the payment does not exceed \$2,500, except those appointed under (a)(4) of this section, whose authority is limited to \$1,000.

(2) The Commander of each Coast Guard District, upon the receipt of the report of a foreign claims commission appointed by him or any of his subordinate commanders, may approve for payment a claim when the amount of the payment does not exceed \$5,000.

(3) The Chief Counsel, upon the receipt of the report of a foreign claims commission appointed by him or referred to him, may settle and pay any claim where the amount to be paid does not exceed \$25,000.

(4) In any case where a foreign claim is considered to be meritorious in an amount in excess of \$25,000, the Chief Counsel may pay the claimant \$25,000, and without the release or settlement authority required in § 25.415 certify the excess to Congress.

Subpart E—Non-Scope Claims

AUTHORITY: 10 U.S.C. 2737; 49 CFR 1.45(a)(2).

§ 25.501 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States under the Non-Scope of Employment Claims

Act for death, personal injury, or damage to or loss of property incident to the use of a government vehicle or other government property.

§ 25.503 Claims payable.

Claims for death, personal injury, or damage to or loss of real or personal property are payable in an amount not to exceed \$1,000 when caused by a member or a civilian employee of the Coast Guard—

(a) Incident to the use of a vehicle of the United States at any place;

(b) Incident to the use of any other property of the United States on a government installation.

§ 25.505 Claims not payable.

This subpart does not apply to a claim that—

(a) Is cognizable under any other provision of law or regulation administered by the Coast Guard;

(b) Results wholly or partly from the negligent or wrongful act of the claimant, his agent, or his employee;

(c) Is for any element of damage pertaining to death or personal injury other than the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid by the United States;

(d) Is legally recoverable by the claimant under a compensation statute or an insurance policy; or

(e) Is a subrogated claim.

§ 25.507 Time limitations on claims.

A claim may be settled under this subpart only if presented in writing within two years after it accrues.

§ 25.509 Notification to claimant of action on claim.

If a claim is determined to be meritorious in any amount, a written acceptance and release or a claim settlement agreement must be signed by the claimant before payment.

§ 25.511 Delegation of authority.

The following officers may deny any claim and may settle and authorize payment of claims in which the amount of payment does not exceed \$1,000:

(a) The Chief Counsel.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel.

(c) The Commander of each Coast Guard District.

(d) The Superintendent, U.S. Coast Guard Academy.

(e) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet.

Subpart F—Admiralty Claims

AUTHORITY: 14 USC 646; 14 USC 633; 49 CFR 1.45(d)(2).

§ 25.601 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States for death, personal injury, damage to or loss of property caused by a vessel or other property in the service of the Coast Guard, or a maritime tort committed

by an agent of the Coast Guard, and for towage and salvage services rendered to such vessels or property.

§ 25.603 Claims payable.

The following claims are payable:

(a) Claims for death, personal injury, damage to or loss of real or personal property arising from a maritime tort caused by an agent or employee of the Coast Guard, or a vessel or other property in the service of the Coast Guard including an auxiliary facility operated under specific orders and acting within the scope of such orders.

§ 25.605 Claims not payable.

This subpart does not apply to a claim that—

(a) Arises from the activities of the Coast Guard while engaged in or preparing for combat;

(b) Is for death or personal injury of members of the Armed Forces of the United States incurred incident to their service, or of civilian employees of the United States to whom the Federal Employees Compensation Act applies; or

(c) Is payable under subpart G, the Military Personnel and Civilian Employees Claims Act.

§ 25.607 Time limitation on claims.

(a) Claims must be administratively settled and approved for final payment by the settlement authority within two years from the date the cause of action accrues or the claim is barred.

(b) If a complaint is filed in a federal district court before the expiration of the two years period, an administrative settlement may be negotiated by the settlement authority at any time with the consent of the Department of Justice. Payment will be made upon final dismissal of the complaint.

§ 25.609 Notification to claimant of action on claim.

If a claim is determined to be meritorious in any amount, a written acceptance and release or a claim settlement agreement must be signed by the claimant before payment.

§ 25.611 Delegation of authority.

(a) The Chief Counsel may deny any claim and may settle and authorize payment of claims in which the payment does not exceed \$25,000.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel, may deny claims not exceeding \$10,000 and may settle and authorize payment of claims in which the payment does not exceed \$10,000.

(c) The following officers may deny claims not exceeding \$5,000 and may settle and authorize payment of claims in which the payment does not exceed \$5,000:

(1) The Commander of any Coast Guard District.

(2) The Superintendent, U.S. Coast Guard Academy.

(3) The Commanding Officer of each Headquarters unit having a permanent legal officer billet.

Subpart G—Military Personnel and Civilian Employees' Claims

AUTHORITY: 31 USC 241; 49 USC 1655 (b); 49 CFR 1.45(a)(2).

§ 25.701 Scope.

This subpart prescribes the requirements for the administrative settlement and payment of claims against the Coast Guard, under the Military Personnel and Civilian Employees' Claims Act, by members and civilian employees of the Coast Guard for damage to or loss of personal property incident to service where the possession of the property is reasonable, useful, and proper under the circumstances.

§ 25.703 Claims payable.

Only the following types of property damage are considered sustained incident to service, and claims arising therefrom are payable if the possession of the property is reasonable, useful, or proper under the circumstances, and where replacement in kind is not appropriate:

(a) Losses in quarters or other authorized places.

(1) Damage to or loss of personal property by fire, flood, hurricane, theft, or other unusual occurrence, while located at—

(i) Permanent quarters, including garages, carports, driveways, and attached structures, inside the 50 states and the District of Columbia, only if provided by the Government to the claimant;

(ii) All permanent quarters, including garages, carports, driveways, and attached structures, outside the 50 states and the District of Columbia occupied by the claimant, unless he is a civilian employee of the Coast Guard who is a local inhabitant;

(iii) Any warehouse, office, hospital, baggage storage area, or other place authorized for receiving or storing property. Storage of the personal property lost or damaged must have been authorized by competent authority and the claimant must comply with local regulations concerning storage.

(2) Claims for loss of money, currency, small items of substantial value, or articles of extraordinary value, by theft from quarters are payable only where definite proof of loss by larceny, burglary, or housebreaking is present, evidence establishes that the claimant exercised reasonable care for the protection of the property under all the circumstances, and the loss by theft was reported to the unit commanding officer within 24 hours of discovery.

(b) Transportation and travel losses.

(1) Damage to or loss of personal property incident to travel or transportation in connection with a permanent change of station, performance of temporary duty, or performance of other official duty. Losses incurred while property is stored at a commercial facility for the personal convenience of the claimant, at his expense, pursuant to a permanent change of station, are not compensable.

(2) Claims for damage to or loss of personal property incident to transportation in connection with a permanent

change of station are subject to the limitations, exclusions, and depreciation contained in Appendix 1, Department of Transportation Order 2770.9, which is incorporated by reference as a part of this subpart.

(c) Motor vehicle losses. Notwithstanding any other provision of this subpart, damage to or loss of privately owned motor vehicles, including accompanying component parts, are payable only if—

(1) Shipped under permanent change of station orders;

(2) Located in quarters as defined in paragraph (a) (1) (i) of this section;

(3) Incident to TAD or TDY travel, limited to a maximum payment of \$100; or

(4) Incurred in use necessary in the performance of official government business under circumstances in which the owner or operator is entitled to payment of local travel.

(d) Housetrailer losses.

(1) A "Housetrailer" is a residence designed to be moved overland, and includes all household goods, personal effects, and professional books, papers, and equipment contained in the trailer and owned or intended for use by the member of his dependents.

(2) Claims for damage to or loss of housetrailers arising incident to shipment under orders are payable only if—

(i) Transported by the service member, an agent or agency of the government, or other carrier having operating rights approved by the Interstate Commerce Commission if interstate, or under applicable State regulations when the shipment is within a single state; and

(ii) The owner has placed the house-trailer, including the chassis, brakes, tires, tubes, bearings, undercarriage, frame, and other parts of the house-trailer and its contents, in fit condition to withstand the stress of normal transportation. Acceptance of a house-trailer for shipment by a carrier is presumptive evidence that the house-trailer was in condition to withstand the stress of normal transportation.

(e) Losses in marine or aircraft disasters. Damage to or loss of personal property carried on board any vessel or aircraft that results from a marine or aircraft disaster, excluding losses sustained in a leave status.

(f) Losses due to hostile action. Damage to or loss of personal property resulting from—

(1) Enemy action or threat of such action;

(2) Combat or performance of a combat mission;

(3) Foreign belligerent activities; or

(4) Unjust confiscation by a foreign power or its nationals hostile to the United States.

(g) Losses of money deposited for safekeeping. Loss of personal funds when accepted by responsible government personnel with apparent authority to receive them for the purpose of safekeeping, deposit, transmittal, or authorized disposition.

(h) Losses of property incurred in the performance of official duties.

(1) Damage to or loss of personal property incurred in use necessary in the performance of official government business; or

(2) Damage to or loss of personal property as a direct result of an unusual risk, one that is beyond the normal risks of everyday life, to which the property is subjected during the performance of official government business.

§ 25.705 Claims not payable.

A claim is not payable for—

(a) Money or currency except—

(1) When deposited for safekeeping under § 25.703(g) of this subpart;

(2) When lost incident to a marine or aircraft disaster under § 25.703(e) of this subpart;

(3) When lost incident to hostile action under § 25.703(f) of this subpart; or

(4) When lost by fire, flood, hurricane, or theft from quarters under § 25.703(a) of this subpart. Claims for loss of money or currency are not payable in excess of \$150 when the loss arises under § 25.703(a) or § 25.703(f) of this subpart.

(b) Small items of substantial value such as jewelry, cameras, electronic equipment, and binoculars; and articles of extraordinary value such as precious metals, paintings, and antiques, except when lost—

(1) Incident to a marine or aircraft disaster under § 25.703(e) of this subpart;

(2) Incident to the shipment of household goods that has been declared a "high value" shipment;

(3) Incident to hostile action under § 25.703(f) of this subpart;

(4) By fire, flood, hurricane, or theft from quarters under § 25.703(a) of this subpart.

(c) Articles or property worn or carried on the person, except under § 25.703(e), (f), or (h) of this subpart.

(d) Property acquired by or in the possession of the claimant intended directly or indirectly for the use of others either by gift or through sale.

(e) Damage to or loss of property for use in a private or commercial business enterprise.

(f) Subrogated interests presented by, or on behalf of, insurers or other subrogees.

(g) Damage to or loss of property for which recovery has been, or can be, obtained from an insurer, carrier, or contractor, except under the concurrent claims procedure of § 25.707(c) of this subpart.

(h) Damage to or loss of property resulting wholly or partly from the negligence of the claimant, his agent, or employee.

(i) Fees for obtaining estimates of repair where such fee is deducted from the cost of repairs if the work is accomplished.

(j) Fees for the pick-up and delivery of property repaired except when proof of payment of such fees is presented by the claimant.

(k) Damage to or loss of motor vehicles except to the extent allowable under § 25.703(c) of this subpart.

§ 25.707 Time limitations on claims.

(a) A claim may be settled and paid only if presented in writing within two years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not more than two years after the termination of the war or armed conflict.

(b) For the purposes of this section, a war or armed conflict is one in which an Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict will be as established by concurrent resolution of Congress or by determination of the President.

§ 25.709 Procedure.

(a) Except as provided in paragraph (c) of this section, before submission of a claim under this subpart the following requirements must be met:

(1) Whenever property cognizable under § 25.703 of this subpart is damaged or lost, and is insured in whole or in part, the claimant must make a demand in writing against the insurer for reimbursement under the terms and conditions of, and within the time limit required by the insurance policy.

(2) Whenever property cognizable under § 25.703 of this subpart is damaged or lost while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the carrier known to have handled or transported the property. If more than one bill of lading was issued, a separate demand must be made on the carrier known to have handled or transported the property on each bill of lading.

(b) Failure to make demand on a carrier, contractor, or insurer under paragraph (a) of this section, or failure to make all reasonable efforts to collect the amount recoverable from them, results in a reduction of the amount recoverable under this subpart by the maximum amount that would have been recoverable from the carrier, contractor, or insurer had claims been timely made or diligently prosecuted by the claimant. This paragraph does not apply in cases where the circumstances of the claimant's service precludes reasonable filing of such a claim or diligent prosecution, or evidence is presented by the claimant that a demand for reimbursement would have been impracticable or futile.

(c) To expedite the settlement of household effects claims, the claim presented to the Government under this subpart may be submitted concurrently with the demand made against the carrier, contractor, or insurer. The claimant must direct the carrier, contractor, or insurer to address all correspondence regarding the claim to the commanding officer of the unit or activity at which the claim against the Government was

filed, to send any payment in settlement of the claim against the carrier, contractor, or insurer to that commanding officer and to make it payable to the claimant.

(d) Where collateral recovery is available to the claimant under paragraph (a) of this section, no claim is paid under this subpart until—

(1) a subrogation agreement in favor of the United States in the amount paid is executed by the claimant; and

(2) an agreement is signed by the claimant to return to the United States any recovery obtained by him from third parties up to the amount paid under this subpart.

(e) Claims are presented in writing to the commanding officer of the unit or activity with which the claimant is serving, or if no longer serving in or with the Coast Guard, the Commander of the nearest Coast Guard District.

(f) In any case involving damage to property that renders it a total loss, uneconomically repairable, the settlement authority, prior to payment, may require the claimant to surrender the property in return for payment. Any property so surrendered becomes property of the United States.

§ 25.711 Replacement in kind.

Items of military clothing and related articles which have been lost or destroyed incident to service may be replaced in kind. The items issued in replacement need not be new and unused if they are in at least as good condition as the lost or destroyed items immediately before the incident causing the loss or destruction.

§ 25.713 Delegation of authority.

(a) The Chief Counsel may deny any claim and settle and authorize payment of any claim in an amount not exceeding \$15,000.

(b) The Chief, Office of Personnel may deny any claim for damage to or loss of personal property incident to transportation in connection with a permanent change of station, and any claim arising under § 25.703(d) of this subpart, and may settle and authorize payment of any such claims in an amount not exceeding \$10,000.

(c) The Chief, Claims and Litigation Division, Office of Chief Counsel, may deny claims not exceeding \$5,000 and may settle and authorize payment of claims in which the amount of the payment does not exceed \$5,000. This authority shall extend to all claims arising under this subpart except those for which authority has been delegated to the Chief, Office of Personnel and the Chief, Personnel Services Division.

(d) The Chief, Personnel Services Division may deny claims arising under § 25.703(d) of this subpart not exceeding \$5,000 and may deny claims for damage to or loss of property incident to transportation in connection with a permanent change of station not exceeding \$5,000, and may settle and authorize payment of any such claims in which the amount of the payment does not exceed \$5,000.

(e) The Commander of each Coast Guard District, and the Superintendent, U.S. Coast Guard Academy, may deny claims not exceeding \$1,000 and may settle and authorize payment of claims in which the amount of the payment does not exceed \$1,000.

(f) The Commanding Officer of each Headquarters unit having a permanent legal officer billet may deny claims not exceeding \$500 and may settle and authorize payment of claims in which the amount of the payment does not exceed \$500.

(g) The officers to whom authority is delegated in paragraphs (a), (b), (c), (d), (e), and (f) of this section, and any commanding officer in the grade of Lieutenant Commander or above may settle claims of military personnel for replacement in kind arising under this subpart.

§ 25.715 Attorneys' fees.

Attorneys' fees for any claim settled and paid under this subpart are limited to not more than 10 percent of the amount paid in settlement.

Subpart H—Auxiliary Claims

AUTHORITY: 14 USC 830.

§ 25.801 Scope.

The regulations in this subpart prescribe the requirements for the administrative settlement of claims of members of the Coast Guard Auxiliary for damage to or loss of an Auxiliary facility or equipment.

§ 26.803 Claims payable.

Damage to or loss of an Auxiliary facility or equipment, including a trailered facility en route to or from the launching area, is payable if—

(a) There is in existence a current offer of use, accepted by the Coast Guard;

(b) At the time the damage or loss is incurred the facility was assigned to authorized specific Coast Guard duties and was operated within the scope of those duties; and

(c) All forms required by the Auxiliary Manual, CG-305, are on file and current.

§ 25.805 Claims not payable.

A claim is not payable if it—

(a) Is for damage to or loss of equipment if its possession was not reasonable under the circumstances;

(b) Is for damage to or loss of a facility or equipment, including a trailer, en route to or from a launching site caused wholly or partly by the negligence of the Auxiliarist;

(c) Results wholly or partly from the gross negligence or willful misconduct of the Auxiliarist;

(d) Has been, or can be, the subject of a claim by the Auxiliarist against his insurer to the extent of his reimbursable interest;

(e) Results from theft;

(f) Results from the failure of the Auxiliarist to properly maintain the facility or equipment;

(g) Is for repair or replacement of a facility or equipment attributable to normal wear;

(h) Is presented by, or on behalf of, insurers or other subrogees;

(i) Is for routine operational expenses such as fuel, oil, water, power, supplies, or provisions unless combined with a claim for damage or loss.

§ 25.807 Time limitations on claims.

A claim may be settled only if presented in writing to the District Director of the Auxiliary in the Coast Guard District where the claim arose within 60 days after it accrues unless good cause is shown for the delay.

§ 25.809 Procedure.

(a) Claims may be filed either as an endorsement to an Auxiliarist's original Coast Guard orders or by letter to the District Director of the Auxiliary. The amount of the claim must be clearly stated and the claim accompanied by the following:

(1) The original Coast Guard Auxiliary Operational Orders.

(2) The Certificate of Loss or Damage required by the Auxiliary Manual, CG-305.

(3) In cases of damage, two itemized estimates of the cost of repairs.

(4) In cases of loss, copies of original sales documents and proof of the salvage value.

(b) When a facility suffers loss of or damage to its hull, machinery, or equipment, the circumstances surrounding the damage or loss must be reported immediately to the command that issued the orders under which the facility was operating or to the District Director of the Auxiliary. Repairs to a facility may not be undertaken until after a Coast Guard investigator, or his designee, has inspected the damage. Failure to comply with this requirement will normally result in the denial of any claim.

(c) In any case where evidence of negligence on the part of the owner or operator of the Auxiliary facility is involved, the claim is referred to the Chief Counsel.

(d) Where the negligence of third parties has caused or contributed to the damage to or loss of an Auxiliary facility or equipment, no claim is paid to the Auxiliarist until—

(1) A subrogation agreement in favor of the United States in the amount paid is executed by the Auxiliarist; and

(2) An agreement is signed by the Auxiliarist to return to the United States any recovery obtained by him from third parties.

§ 25.811 Delegation of authority.

(a) The Chief Counsel may deny or settle and authorize payment of any claim regardless of the amount claimed.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel, may deny claims not exceeding \$5,000 and may settle and authorize payment of claims in which the amount of payment does not exceed \$5,000.

(c) The Commander of each Coast Guard District may deny claims not exceeding \$2,500 and may settle and authorize payment of claims in which the amount of payment does not exceed \$2,500 except where evidence of negligence on the part of the owner or operator of the Auxiliary facility is involved.

Subpart I—Article 139, Uniform Code of Military Justice (UCMJ)

AUTHORITY: 10 USC 939; 49 CFR 1.45 (a) (2).

§ 25.901 Scope.

This subpart prescribes the requirements for the administrative settlement of claims under Article 139, Uniform Code of Military Justice, against members of the Coast Guard for damage to or loss of property willfully caused by them.

§ 25.903 Claims payable.

Claims for damage to or loss of real or personal property caused by a member of the Coast Guard are payable when the damage or loss results from—

(a) Riotous, violent, and disorderly conduct or acts of depredation by an individual or group that evinces a reckless disregard of property rights;

(b) Willful or intentional acts constituting a crime under local law;

(c) Gross negligence demonstrating a conscious indifference to the property rights of others.

§ 25.905 Claims not payable.

A claim is not payable if it—

(a) Results from simple negligence;

(b) Is a subrogated claim;

(c) Is for damage to or loss of property resulting from the act or omission of a member of the Coast Guard acting within the scope of employment;

(d) Is for damage to or loss of property owned by the United States or property of a Nonappropriated Fund Activity;

(e) Is for damage to or loss of property where gross negligence of the claimant, his agent, or employee is involved;

(f) Has been paid by a third party;

(g) Is for indirect or remote damages;

(h) Is for personal injury or death;

(i) Extends to damage or loss that results from the owner's failure to mitigate his damages; or

(j) Exceeds the actual reasonable costs of repair or replacement of the property lost or damaged.

§ 25.907 Time limitation on claims.

A claim may be settled only if presented in writing within 60 days after it accrues unless good cause is shown for the delay.

§ 25.909 Limitation on payment of claims.

No member of the Coast Guard will be required to pay more than \$1,000 for any single act or incident giving rise to a claim under this subpart.

§ 25.911 Authority.

(a) The commanding officer of the member responsible for the damage to or

loss of property may deny any claim or approve for payment any claim where the amount to be paid does not exceed \$1,000. No claim in excess of \$300 is approved for payment by the commanding officer without prior approval of the Chief Counsel.

(b) Where members of more than one command are responsible for the damage to or loss of property, the commanding officer with jurisdiction over all members responsible is the approving authority.

(c) The determination of the commanding officer is final.

§ 25.913 Notification to claimant of action on claim.

When the commanding officer of the member responsible for the damage to or loss of property approves payment of a claim, the claimant is notified in writing of this action and the manner in which payment will be made.

§ 25.915 Payment of claims.

Claims are paid by the member responsible for the damage to or loss of property. Payment is made to the claimant either directly by the member responsible or withheld from his pay and forwarded to the claimant by a disbursing officer.

Subpart J—Pollution Removal Damage Claims

AUTHORITY: 33 USC 1321(j) (1) (A); 33 USC 1321(1); E.O. 11735, Sec. 5(a), (b) (3); 49 CFR 1.46(m).

§ 25.1001 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States for damage to or loss of property resulting from containment or removal activities during Phase III or IV of the National Contingency Plan of February 1975, under the Federal Water Pollution Control Act.

§ 25.1003 Claims payable.

Claims for damage to or loss of real or personal property are payable if—

(a) Caused by the United States, its employees, agents, or contractors, incurred in pollution response activities under Phase III or IV of the National Contingency Plan; and

(b) In the exercise of care reasonable under the circumstances, the action giving rise to the claim was necessary and the damage unavoidable.

§ 25.1005 Claims not payable.

A claim is not payable if it—

(a) Is for death or personal injury; or

(b) Arises out of activities to contain or remove a discharge of oil or other hazardous polluting substance from a U.S. or foreign public vessel or federally controlled facility.

§ 25.1007 Delegation of authority.

Claims cognizable under this subpart are a cost of response activities under Phases III and IV of the National Contingency Plan of February 1975, under

the Federal Water Pollution Control Act; therefore, the delegations under Part 153 of this Title apply.

Subpart N—Property Damage Claims on Behalf of the Coast Guard

AUTHORITY: 14 USC 642; 14 USC 633; 49 CFR 1.45(a) (2).

§ 25.1401 Scope.

This subpart prescribes the authority for the administrative collection, compromise, and settlement of claims on behalf of the Coast Guard, under 14 U.S.C. 642, for the damage to or destruction of aids to navigation or other property belonging to the Coast Guard.

§ 25.1403 Aids to Navigation.

Claims for damage to or destruction of aids to navigation and related property maintained by the Coast Guard include the following:

(a) Direct costs incident to repairing or replacing damaged, destroyed, or lost aids to navigation, their appurtenances, or related property.

(b) Cost of returning a floating aid to navigation to its proper position regardless of damage to the aid.

(c) Cost of placing into operation and removing a temporary aid to navigation for that which is damaged, destroyed, or lost.

(d) Cost of locating, recovering, and removing a damaged, destroyed, or lost aid to navigation, or any of its appurtenances, or attempts to do so.

§ 25.1405 Other property belonging to the Coast Guard.

Claims for damage to or destruction of other property belonging to the Coast Guard may be administratively collected, compromised, and settled under this subpart only if the property damaged or destroyed is to be repaired or replaced, and only to the extent of the direct costs of repair or replacement.

§ 25.1407 Private repair or replacement.

The repair or replacement of an aid to navigation or other property belonging to the Coast Guard may be done by a private person only if the plans and schedule are acceptable to the Coast Guard. The Coast Guard does not pay for any enhanced value unless previously agreed to in writing.

§ 25.1409 Delegation of authority.

(a) The Chief Counsel may collect, compromise, and settle claims on behalf of the United States in any amount for damage to or destruction of aids to navigation and related property maintained by the Coast Guard, or for damage to or destruction of other property belonging to the Coast Guard which is to be repaired or replaced.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel may collect, compromise, and settle claims on behalf of the United States for damage to or destruction of aids to navigation and related property maintained by the Coast Guard, or for damage to or destruction of other property belonging to the Coast

Guard which is to be repaired or replaced, where the amount of the claim does not exceed \$20,000.

(c) The Commander of each Coast Guard District may collect, compromise, and settle claims on behalf of the United States for damage to or destruction of aids to navigation and related property maintained by the Coast Guard, or for damage to or destruction of other property belonging to the Coast Guard which is to be repaired or replaced, where the amount of the claim does not exceed \$15,000.

§ 25.1411 Settlement agreement.

The person making restitution to the Coast Guard under § 25.1407 or § 25.1409 of this subpart, receives a settlement agreement executed by the officer authorized to collect, compromise, and settle the claim.

Subpart O—Admiralty Claims on Behalf of the Coast Guard

AUTHORITY: 14 USC 647; 49 USC 1655 (b); 14 USC 633; 49 CFR 1.45(a) (2).

§ 25.1501 Scope.

This subpart prescribes the authority for the administrative collection, compromise, and settlement of admiralty claims on behalf of the Coast Guard under 14 U.S.C. 647. This subpart does not extend to those claims on behalf of the Coast Guard arising in admiralty that are cognizable under subpart N of this Part.

§ 25.1503 Delegation of authority.

(a) The Chief Counsel may collect claims in full, and compromise and settle claims where the amount received does not exceed \$25,000, arising in admiralty and not cognizable under subpart N of this Part for—

(1) damage to United States property under the control of the Coast Guard; and

(2) damage to property for which the Coast Guard has assumed any obligation to respond for damages thereto.

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel may collect claims in full, and compromise and settle claims, where the amount of the claim does not exceed \$10,000, arising in admiralty and not cognizable under subpart N of this Part for damage to property described in paragraphs (a) (1) and (a) (2) of this section;

(c) The following officers may collect claims in full, and compromise and settle claims arising in admiralty and not cognizable under subpart N of this Part for damage to United States property under the control of their command, or for damage to property described in paragraph (a) (2) of this section, where the amount of the claim does not exceed \$10,000:

(1) The Commander of each Coast Guard District;

(2) The Superintendent, U.S. Coast Guard Academy;

(3) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet.

§ 25.1505 Release.

The person satisfying a claim under this subpart receives a release executed by the officer authorized to collect, compromise, and settle the claim.

Subpart P—Federal Claims Collection Act

AUTHORITY: 31 USC 952; 49 CFR 89.1.

§ 25.1601 Scope.

This subpart prescribes the authority and standards for the administrative collection, compromise, suspension or termination of action to collect, claims on behalf of the Coast Guard regardless of the source.

§ 25.1603 Single claim.

A debtor's total liability to the United States arising from a particular incident is a single claim in determining whether the claim is within the authority delegated under § 25.1609 of this subpart.

§ 25.1605 Direct private payments.

(a) When a person who is responsible for damage to government property, or his insurer, offers to have the property repaired to the satisfaction of the Coast Guard and to pay the cost of repairs directly to the repairer, direct payment is authorized where that procedure is in the best interests of the United States.

(b) The Coast Guard does not pay for any enhanced value unless previously agreed to in writing.

§ 25.1607 Release.

The settlement authority executes a release either upon receipt of agreed payment of the claim or upon completion of the repairs and receipt of evidence of payment in full to the repairer under § 25.1605 of this subpart.

§ 25.1609 Delegation of authority.

Any settlement authority may accept payment in full of any claim on behalf of the Coast Guard. The functions, powers, and duties of the Commandant, U.S. Coast Guard, to compromise, suspend or terminate action to collect claims on behalf of the United States arising out of Coast Guard activities, or matters referred to the Coast Guard, are delegated to—

(a) The Chief Counsel for any claim that does not exceed \$20,000;

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel for any claim that does not exceed \$10,000;

(c) The Comptroller, U.S. Coast Guard for any claim that does not exceed \$5,000 arising out of activities under his cognizance;

(d) The Commander of each Coast Guard District, and the Commanding Officer of each Headquarters Unit having a permanent legal officer billet, for any claims that do not exceed \$5,000 arising out of the activities of his command.

§ 25.1611 Exceptions to delegated authority.

The authority delegated in § 25.1609 does not apply to—

(a) Claims cognizable under subparts N or O of this Part;

(b) Claims against a foreign government unless specifically authorized by the Commandant;

(c) Claims involving an adjustment for unused passenger transportation services;

(d) Claims against a civilian employee as a result of an erroneous payment or overpayment of pay;

(e) The authority delegated in § 25.1609(d) of this subpart does not extend to the compromise, suspension or termination of actions to collect claims arising out of erroneous payments or overpayments of military pay and allowances.

§ 25.1613 Referral.

(a) The Chief Counsel may refer any claim to the Department of Justice or the General Accounting Office;

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel may refer any claim to the Department of Justice or the General Accounting Office that does not exceed \$10,000;

(c) Any District Commander—

(1) may refer a claim within his delegated authority to the appropriate United States Attorney provided collection action has been taken and the claim cannot be compromised, suspended, or terminated in accordance with 4 CFR Chapter II;

(2) refers any claim in excess of his delegated authority which cannot be collected in full to the Chief Counsel;

(d) Any other settlement authority who is unable to compromise, suspend, or terminate collection action of a claim refers the claim to the Chief Counsel.

Effective date: These amendments become effective on March 4, 1976.

Dated: February 27, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 76-6238 Filed 3-3-76; 8:45 am]

CHAPTER II—CORPS OF ENGINEERS**PART 209—ADMINISTRATIVE PROCEDURES: SHIPPING SAFETY FAIRWAYS AND ANCHORAGE AREAS****Gulf of Mexico**

On 24 September 1975 the Department of the Army acting through the Chief of Engineers published proposed regulations in 33 CFR 209.135 to amend present regulation with respect to paragraphs (d) (41) through (d) (46) and the addition of (d) (47) through (d) (51). This regulation establishes safety fairways and anchorages in the Gulf of Mexico.

The comment period for this regulation expired on 24 October 1975. There were no objections to the proposed revision. However, an error was made in the Pensacola to Panama City Safety Fairway (43). The point location should be latitude 30°18'00", Longitude 86°20'00" in lieu of latitude 31°18'00", Longitude 86°20'00" as published.

The Department of the Army, acting through the Chief of Engineers is publishing the final regulation as follows:

§ 209.135 Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico.

Title 40—Protection of Environment
CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 497-3]

PART 52—APPROVAL AND PROMULGA-
TION OF STATE IMPLEMENTATION PLANS

Amendment of Gasoline Vapor Control
Regulation

This rule making modifies the existing gasoline transfer vapor control (Stage I) regulations, 40 CFR 52.255 (38 FR 31251) for the Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Intrastate Air Quality Control Regions (AQCR). This modification extends the March 1, 1976, final compliance date until July 1, 1976, and further extends this final compliance date for: (1) Smaller distribution facilities, (2) agricultural tanks, and (3) 2,000 gallon tanks, until January 1, 1977.

The Administrator promulgated Stage I regulations for the above-mentioned AQCR's on November 12, 1973 (38 FR 31251). Since that time, a number of Air Pollution Control Districts (APCD) have adopted similar regulations; however, only the following have been submitted as revisions to the California State Implementation Plan (submittal date indicated):

1. Yolo-Solano APCD, Rule 2.21 (7/19/74).
2. Los Angeles County APCD, Rule 65 (10/23/74).
3. Ventura County APCD, Rule 70 (10/23/74).
4. San Joaquin County APCD, Rule 411.1 (10/23/74).
5. Sacramento County APCD, Rule 13 (10/1/75). All of the above regulations, except Sacramento County, have since been amended, but these amendments have not yet been submitted.

The situation now exists, where many APCD's have adopted Stage I regulations, modeled after the California Air Resources Board (ARB) suggested rule adopted on April 17, 1975, and have been actively working to achieve a July 1, 1976 final compliance date. Since these regulations have not been submitted as official SIP revisions, EPA's promulgated final compliance date of March 1, 1976 remains in effect. In order to remedy the potential problem of sources being in violation with Federal regulations because of planned compliance with County compliance schedules, the Administrator finds good cause to extend EPA's final compliance date to be consistent with the July 1, 1976 date contained in the model ARB Stage I rule.

As a point of clarification, EPA's regulations are effective in the entire portion of the Metropolitan Los Angeles, Sacramento Valley and San Joaquin Valley AQCR's. The ARB position has been that

(4) ***			
(41) Pensacola Safety Fairway. The areas between rhumb lines joining points at:			
Latitude	Longitude	Latitude	Longitude
30°23'41"	87°14'34"	30°22'54"	87°13'53"
30°23'06"	87°13'53"	30°20'47"	87°15'45"
and rhumb lines joining points at:			
30°18'43"	87°19'24"	30°12'31"	87°18'00"
30°15'57"	87°18'19"	30°10'03"	87°18'00"
30°14'20"	87°19'05"	30°37'00"	87°18'00"
and rhumb lines joining points at:			
30°26'27"	87°08'28"	30°25'35"	87°10'30"
and rhumb lines joining points at:			
30°24'36"	87°07'07"	30°19'21"	87°14'46"
30°22'57"	87°09'38"	30°19'52"	87°17'31"
30°22'36"	87°11'50"		
and rhumb lines joining points at:			
30°19'15"	87°17'37"	30°12'33"	87°15'43"
30°16'28"	87°16'32"	29°42'30"	87°15'43"
30°14'32"	87°16'06"		
(42) Pensacola Anchorages. (a) The area within rhumb lines joining points at:			
Latitude	Longitude	Latitude	Longitude
30°11'49"	87°22'41"	30°10'08"	87°18'00"
30°12'31"	87°18'00"	30°09'21"	87°22'41"
(b) The area within rhumb lines joining points at:			
30°16'28"	87°16'32"	30°15'14"	87°11'52"
30°17'14"	87°11'52"	30°14'32"	87°16'06"
(43) Pensacola to Panama City Safety Fairway. The area between rhumb lines joining points at:			
30°14'32"	87°16'06"	30°18'00"	86°20'00"
30°15'14"	87°11'52"	29°51'30"	85°47'33"
30°18'45"	86°50'00"		
and rhumb lines joining points at:			
30°12'33"	87°15'43"	30°16'04"	86°20'55"
30°16'44"	86°49'49"	29°48'45"	85°47'33"
(44) Panama City Safety Fairways. The areas between rhumb lines joining points at:			
30°09'24"	85°40'12"	30°06'32"	85°47'33"
30°09'21"	85°41'40"	29°51'30"	85°47'33"
30°07'36"	85°44'20"	29°48'46"	85°47'33"
30°06'59"	85°46'12"	29°03'30"	85°47'33"
and rhumb lines joining points at:			
30°08'34"	85°40'16"	29°55'27"	85°45'15"
30°07'55"	85°41'50"	29°51'20"	85°45'15"
30°06'49"	85°43'28"	29°49'19"	85°45'15"
30°05'16"	85°44'45"	29°00'00"	85°45'15"
30°04'40"	85°45'15"		
(45) Panama City Anchorage. The area within rhumb lines joining points at:			
29°55'27"	85°45'15"	29°51'30"	85°42'25"
29°53'27"	85°42'25"	29°51'20"	85°45'15"
(46) Port St. Joe Fairway to Panama City Fairway. The area between rhumb lines joining points at:			
29°49'54"	85°19'24"	29°52'58"	85°28'43"
29°50'59"	85°22'25"	29°58'06"	85°29'48"
29°53'32"	85°22'25"	29°51'30"	85°42'25"
29°54'12"	85°24'00"	29°51'20"	85°45'15"
29°54'12"	85°25'55"		
and rhumb lines joining points at:			
29°48'22"	85°18'12"	29°53'10"	85°25'33"
29°47'21"	85°21'00"	29°51'52"	85°28'19"
29°50'42"	85°23'31"	29°51'04"	85°29'00"
29°52'51"	85°23'36"	29°50'49"	85°32'39"
29°53'10"	85°24'18"	29°49'19"	85°45'15"
(47) Port St. Joe Anchorage. The area within rhumb lines joining points at:			
29°50'40"	85°32'39"	29°49'18"	85°30'18"
29°51'04"	85°29'00"		
(48) Tampa Safety Fairways. The area between rhumb lines joining points at:			
27°37'48"	82°45'54"	27°36'48"	83°00'00"
27°36'48"	82°55'54"	27°36'48"	84°39'10"
and rhumb lines joining points at:			
27°35'54"	82°45'42"	27°34'48"	83°00'00"
27°34'48"	82°55'54"	27°34'48"	84°39'00"
(49) Tampa Anchorages. (a) The area within rhumb lines joining points at:			
27°36'48"	83°00'00"	27°30'00"	82°55'54"
27°39'00"	83°00'00"	27°36'48"	82°55'54"
(b) The area within rhumb lines joining points at:			
27°34'48"	83°00'00"	27°33'00"	82°55'54"
27°33'00"	83°00'00"	27°34'48"	83°55'54"
(50) Charlotte Safety Fairway. The area between rhumb lines joining points at:			
26°41'18"	82°19'00"	26°30'00"	84°22'00"
and rhumb lines joining points at:			
26°39'00"	82°19'00"	26°28'00"	84°21'30"
26°38'30"	82°19'54"		
(51) Charlotte Anchorage. The area within rhumb lines joining points at:			
26°39'00"	82°19'00"	26°37'36"	82°19'18"
26°38'12"	82°18'24"	26°35'30"	82°19'54"

(Regs., February 12, 1976) (Section 10, River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 408) and Section 4 of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1333(f)).

Approved:

VICTOR V. VEYSEY,
Assistant Secretary of the Army
(Civil Works).

[FR Doc.76-6011 Filed 3-3-76; 8:45 am]

controls are not necessary in the Mountain Counties Air Basin portion of the Sacramento and San Joaquin Valley AQCR's, except in the Lake Tahoe area. However, controls have only been required by the ARB in the South Coast Air Basin and five metropolitan counties in the Sacramento and San Joaquin Valley AQCR's. EPA disagrees with the exemption of these areas and intends to enforce the Stage I requirements on an AQCR-wide basis in the three regions listed. In order to maintain uniformity of EPA's compliance date, the March 1, 1976 date is extended until July 1, 1976 for the entire area of these three AQCR's.

In addition, this model ARB rule contains several exemptions that are not contained in Section 52.255. Specifically, these exemptions allow the installation of submerged fill in place of other vapor control measures for: (1) All agricultural tanks, (2) 2,000 gallon tanks, (3) tanks serviced by small bulk plants, and (4) filling of delivery vehicles at small bulk plants. Small bulk plants are distribution facilities whose annual throughput to non-exempt storage containers, i.e., total throughput excluding throughput to agricultural tanks and to tanks 2,000 gallons and less, does not exceed 500,000 gallons.

Cost estimates determined by the ARB suggest that the cost for these small bulk plants to comply with EPA's requirements may represent 25%-50% of the net worth of such operations. These costs are questioned because of the small percentage of gasoline throughput these small bulk plants deliver to tanks subject to gasoline vapor controls. Because the Administrator is concerned with the economic impact on these small operations, an additional final compliance extension for small bulk plants, until January 1, 1977, is being made. Although § 52.255(c)(3)(iii) now defers compliance until January 1, 1977 for certain small bulk plants, this added extension may or may not exempt additional sources, but is being included to be consistent with the suggested ARB rule, and to allow additional time for these costs and emissions to be evaluated.

A further final compliance extension for agricultural tankage and 2,000 gallon tanks is being made because of claims that vapor control hardware does not exist for two inch fill openings, commonly present on 2,000 gallon tanks, and the small percentage of gasoline used by agricultural accounts in tanks greater than 2,000 gallons. To allow for further study, the final compliance date for these sources is also extended until January 1, 1977.

Because of the extreme shortness of time, the Administrator finds good cause exists for making these changes effective immediately upon promulgation.

(Sec. 110(c) and 301(a) of the Clean Air Act, (42 U.S.C. 1857c-5 and 1857g.))

Dated: February 27, 1976.

RUSSELL E. TRAIN,
Administrator.

Section 52.255 of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended by revising paragraphs (c)(3)(iii) and (iv) and paragraph (e)(5) as follows:

Subpart F—California

§ 52.225 Gasoline transfer vapor control.

(c) * * *

(3) * * *

(iii) Facilities that do not have more than a 20,000 gallon per day throughput, and distribute less than 10% of daily volume to delivery vehicles that in turn service storage tanks that are required to have a vapor return or balance system, will not be required to comply with the provisions of paragraph (c) of this section before January 1, 1977. Facilities that service delivery vehicles that in turn deliver not more than 500,000 gallons per year to storage tanks that are required to comply with the provisions of paragraph (c) of this section will not be required to comply with the provisions of paragraph (c) of this section before January 1, 1977. Facilities that exclusively service storage tanks that do not have a required vapor return or balance system, will not be required to have a vapor recovery system.

(iv) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(v) Storage containers used exclusively for the fueling of implements of husbandry will not be required to comply with the provisions of paragraph (c) of this section until January 1, 1977.

(vi) Storage containers with a capacity of 2,000 gallons installed prior to promulgation of this section will not be required to comply with the provisions of paragraph (c) of this section until January 1, 1977.

(vii) Storage containers served by delivery vehicles fueled at distribution facilities with extended compliance dates will not be required to comply with the provisions of paragraph (c) of this section until January 1, 1977.

(e) * * *

(5) July 1, 1976—assure final compliance with the provisions of paragraph (c) of this section.

[FR Doc. 76-6300; Filed 3-3-76; 8:45 am]

SUBCHAPTER B—GRANTS

[FRL 498-8]

PART 35—STATE AND LOCAL ASSISTANCE

Required Provisions for Subagreements Under Grants for Construction of Treatment Works

On December 17, 1975, the Environmental Protection Agency published in the FEDERAL REGISTER final rules govern-

ing procurement under grants for construction of treatment works (40 FR 58602). At the time of that promulgation, Appendixes C-1 (Required Provisions—Consulting Engineering Agreements) and C-2 (Required Provisions—Construction Contracts) were reserved. The Preamble to those final regulations indicated that the Appendixes were then being put in final form and would be published in the FEDERAL REGISTER shortly.

The Agency is hereby promulgating Appendixes C-1 and C-2 to 40 CFR Part 35 Subpart E, the supplemental regulations governing the award of grants for construction of treatment works under Title II of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500). Appendix C-1 consists of the clauses required by 40 CFR 35.937-9(c) to be included in Step 1, 2 or 3 consulting engineering agreements. Appendix C-2 consists of the clauses required by 40 CFR 35.938-8(b) to be included in Step 3 construction contracts and Step 1 or Step 2 subcontract work which is amenable to formal advertising or competitive negotiation.

The use of these clauses is mandatory with respect to all subagreements for current or future work under all Step 1, 2 or 3 grant assistance awarded on or after March 1, 1976. However, in recognition of the fact that grant applicants and consulting engineers were unaware of the specific provisions of these required clauses when subagreements were negotiated or solicitations were issued in recent weeks (for grant awards expected to be made on or after March 1), the following exception shall obtain. Grants may be awarded prior to July 1, 1976, in instances where previously negotiated or issued subagreements do not comply with 40 CFR 35.937-9(c) or 35.938-8 (a) or (b), if (1) the Regional Administrator awards the grant with a condition that the subagreement(s) be amended to include the required clauses within a specific period of time and, in such event, no grant payments for the affected work may be made until such compliance has been obtained; or (2) the Regional Counsel determines that the subagreement clauses used substantially conform to the required clauses.

In accordance with 40 CFR 30.125, public comment on EPA grant regulations is solicited on a continuous basis. EPA is particularly desirous of receiving public comment on the provisions of Appendixes C-1 and C-2. Comments submitted to the Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460 on or before May 15, 1976, will be considered with respect to the need for revision of these Appendixes.

Effective date. Inasmuch as the regulations requiring the use of these clauses become effective on March 1, 1976, this amendment to Part 35 shall also become effective on March 1, 1976, in order to facilitate the implementation of the

regulations promulgated on December 17, 1975 (40 FR 58602).

Dated: February 27, 1976.

ALVIN L. ALM,
Assistant Administrator
for Planning and Management.

40 CFR Part 35 Subpart E is amended by deleting the designation "RESERVED" following Appendixes C-1 and C-2 and adding the text as shown below.

APPENDIX C-1 REQUIRED PROVISIONS—CONSULTING ENGINEERING AGREEMENTS

1. General.
2. Responsibility of the Engineer.
3. Scope of Work.
4. Changes.
5. Termination.
6. Remedies.
7. Payment.
8. Project Design.
9. Audit; Access to Records.
10. Price Reduction for Defective Cost or Pricing Data.
11. Subcontracts.
12. Labor Standards.
13. Equal Employment Opportunity.
14. Utilization of Small or Minority Business.
15. Covenant Against Contingent Fees.
16. Gratuities.
17. Patents.
18. Copyrights and Rights in Data.

1. *General.* (a) The Owner and the Engineer agree that the following provisions shall apply to the work to be performed under this agreement and that such provisions shall supersede any conflicting provisions of this agreement.

(b) This agreement is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor the U.S. Environmental Protection Agency (hereinafter, "EPA") is a party to this agreement. This agreement is subject to regulations contained in 40 CFR 35.936, 35.937, and 35.939.

2. *Responsibility of the Engineer.* (a) The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this agreement. The Engineer shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, reports and other services.

(b) The Engineer shall perform such professional services as may be necessary to accomplish the work required to be performed under this agreement, in accordance with this agreement and applicable EPA requirements.

(c) Approval by the Owner or EPA of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the technical adequacy of the work. Neither the Owner's nor EPA's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this agreement or of any cause of action arising out of the performance of this agreement, and the Engineer shall be and remain liable in accordance with applicable law for all damages to the Owner or EPA caused by the Engineer's negligent performance of any of the services furnished under this agreement.

(d) The rights and remedies of the Owner provided for under this agreement are in

addition to any other rights and remedies provided by law.

3. *Scope of work.* Except as may be otherwise specifically limited in this agreement, the services to be rendered by the Engineer shall include all services required to complete the task or step in accordance with applicable EPA regulations (40 CFR Part 35, Subpart E).

4. *Changes.* (a) The Owner may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the Engineer's cost of, or time required for, performance of any services under this agreement, whether or not changed by any order, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. Any claim of the Engineer for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Engineer of the notification of change unless the Owner grants a further period of time before the date of final payment under this agreement.

(b) No services for which an additional compensation will be charged by the Engineer shall be furnished without the written authorization of the Owner.

5. *Termination.* (a) This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party: *Provided*, That no such termination may be effected unless the other party is given (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This agreement may be terminated in whole or in part in writing by the Owner for its convenience: *Provided*, That no such termination may be effected unless the Engineer is given (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the Owner, an equitable adjustment in the price provided for in this agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the Engineer at the time of termination may be adjusted to the extent of any additional costs occasioned to the Owner by reason of the Engineer's default. If termination for default is effected by the Engineer, or if termination for convenience is effected by the Owner, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the Engineer for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Engineer relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action pursuant to paragraphs (a) or (b) above, the Engineer shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Engineer in performing this agreement, whether completed or in process.

(e) Upon termination pursuant to paragraphs (a) or (b) above, the Owner may

take over the work and prosecute the same to completion by agreement with another party or otherwise.

(f) If, after termination for failure of the Engineer to fulfill contractual obligations, it is determined that the Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the owner. In such event, adjustment of the price provided for in this agreement shall be made as provided in paragraph (c) of this clause.

(g) The rights and remedies of the Owner and the Engineer provided in this clause are in addition to any other rights and remedies provided by law or under this agreement.

6. *Remedies.* (a) Except as may be otherwise provided in this agreement, or as the parties hereto may otherwise agree, all claims, counter-claims, disputes and other matters in question between the owner and the Engineer arising out of or relating to this agreement or the breach thereof will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations stated in paragraphs (c) and (d) below. This agreement and any other agreement or consent to arbitrate entered into in accordance therewith as provided below, will be specifically enforceable under the prevailing law of any court having jurisdiction.

(b) Notice of demand for arbitration must be filed in writing with the other party to this Agreement, with the EPA Regional Administrator and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may the demand for arbitration be made after the time when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(c) All demands for arbitration and all answering statements thereto which include any monetary claim must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$200,000 (exclusive of interest and costs). The arbitrators will not have jurisdiction, power or authority to consider, or make findings (except in denial of their own jurisdiction) concerning any claim, counter-claims, dispute or other matter in question where the amount in controversy thereof is more than \$200,000 (exclusive of interest and costs) or to render a monetary award in response thereto against any party which totals more than \$200,000 (exclusive of interest and costs).

(d) No arbitration arising out of, or relating to, this agreement may include, by consolidation, joinder or in any other manner, any additional party not a party to this agreement.

(e) By written consent signed by all the parties to this agreement and containing a specific reference hereto, the limitations and restrictions contained in paragraphs (c) and (d) above may be waived in whole or in part as to any claim, counter-claim, dispute or other matter specifically described in such consent. No consent to arbitration in respect of a specifically described claim, counter-claim, dispute or other matter in question will constitute consent to arbitrate any other claim, counter-claim, dispute or other matter in question which is not specifically described in such consent or in which the sum or value in controversy exceeds \$200,000 (exclusive of interest and costs) or which is with any party not specifically described therein.

(f) The award rendered by the arbitrators will be final, not subject to appeal, and judgment may be entered upon it in any court having jurisdiction thereof.

7. **Payment.** (a) The Engineer may submit monthly or periodic statements requesting payment. Such requests shall be based upon the amount and value of the work and services performed by the Engineer under this agreement, and shall be prepared by the Engineer and supplemented or accompanied by such supporting data as may be required by the owner.

(b) Upon approval of such payment request by the Owner, payment upon properly certified vouchers shall be made to the Engineer as soon as practicable of ninety percent of the amount as determined above, less all previous payments: *Provided*, however, that if the Owner determines that the work under this agreement or any specified task hereunder is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Owner, he may at his discretion release to the Engineer such excess amount.

(c) Upon satisfactory completion by the Engineer of the work called for under the terms of this agreement, and upon acceptance of such work by the Owner, the Engineer will be paid the unpaid balance of any money due for such work, including the retained percentages relating to this portion of the work.

(d) Upon satisfactory completion of the work performed hereunder, and prior to final payment under this agreement for such work, or prior settlement upon termination of the agreement, and as a condition precedent thereto, the Engineer shall execute and deliver to the Owner a release of all claims against the Owner arising under or by virtue of this agreement, other than such claims, if any, as may be specifically exempted by the Engineer from the operation of the release in stated amounts to be set forth therein.

8. **Project Design.** (a) In the performance of this agreement, the Engineer shall, to the extent practicable, provide for maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through competitive procurement, or through standard or proven production techniques, methods, and processes, consistent with 40 CFR 35.936-3 and 35.936-13, except to the extent that advanced technology may be utilized pursuant to 40 CFR 35.908.

(b) The Engineer shall not, in the performance of the work called for by this agreement, produce a design or specification such as to require the use of structures, machines, products, materials, construction methods, equipment, or processes which are known by the Engineer to be available only from a sole source, unless such use has been adequately justified in writing by the Engineer as necessary for the minimum needs of the project.

(c) The Engineer shall not, in the performance of the work called for by this agreement, produce a design or specification which would be restrictive in violation of Sec. 204(a)(6) of the Federal Water Pollution Control Act (Pub. L. 92-500). This statute requires that no specification for bids or statement of work may be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing, or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal."

(d) The Engineer shall report to the Owner any sole-source or restrictive design or specification giving the reason or reasons why it is considered necessary to restrict the design or specification.

(e) The Engineer shall not knowingly specify or approve the performance of work at a facility which is in violation of Clean Air or Water standards and which is listed by the Director of the EPA Office of Federal Activities pursuant to 40 CFR Part 15.

9. **Audit; access to records.** (a) The Engineer shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this agreement in accordance with accepted professional practice, appropriate accounting procedures and practices, and 40 CFR 30.605, 30.805, and 35.935-7. The Engineer shall also maintain the financial information and data used by the Engineer in the preparation or support of the cost submission required pursuant to 40 CFR 35.937-6(b) and a copy of the cost summary submitted to the Owner. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, Owner, and [the State water pollution control agency] or any of their duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Engineer will provide proper facilities for such access and inspection.

(b) The Engineer agrees to include paragraphs (a) through (e) of this clause in all his contracts and all tier subcontracts directly related to project performance which are in excess of \$10,000.

(c) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The Engineer agrees to the disclosure of all information and reports resulting from access to records pursuant to paragraphs (a) and (b) above, to any of the agencies referred to in paragraph (a) above. Where the audit concerns the Engineer, the auditing agency will afford the Engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

(e) Records under paragraphs (a) and (b) above shall be maintained and made available during performance on EPA grant work under this agreement and until three years from date of final EPA grant payment for the project. In addition, those records which relate to any "dispute" appeal under an EPA grant agreement, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

10. **Price reduction for defective cost or pricing data.** (The provisions of this clause are required by EPA only if the amount of this agreement exceeds \$100,000.00. The Owner may elect to utilize this clause if the contract amount is \$100,000 or less.)

(a) If the EPA Project Officer determines that any price, including profit negotiated in connection with this agreement or any cost reimbursable under this agreement was increased by any significant sums because the Engineer, or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA Form 5700-41), then such price or cost or

profit shall be reduced accordingly and the agreement shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to the "Remedies" clause of this agreement.

(NOTE: Since the agreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the Architect-Engineer may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Architect-Engineer. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

11. **Subcontracts.** (a) Any subcontractors and outside associates or consultants required by the Engineer in connection with the services covered by this agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as are specifically approved by the Owner during the performance of this agreement. Any substitution in such subcontractors, associates, or consultants will be subject to the prior approval of the Owner.

(b) Except as otherwise provided in this agreement, the Engineer may not subcontract services in excess of thirty percent (30%) of the contract price to subcontractors or consultants without prior written approval of the Owner.

12. **Labor standards.** To the extent that this agreement involves "construction" (as defined by the Secretary of Labor), the Engineer agrees that such construction work shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a-276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity) and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA; and the Engineer further agrees that this agreement shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA Form 5720-4) in effect at the time of execution of this agreement.

13. **Equal employment opportunity.** In accordance with EPA policy as expressed in 40 CFR § 30.420-5, the Engineer agrees that he will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

14. **Utilization of Small and Minority Business.** In accordance with EPA policy as expressed in 40 CFR 35.936-7, the Engineer agrees that qualified small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

15. **Covenant against contingent fees.** The Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty the Owner shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such

commission, percentage, brokerage, or contingent fee.

16. *Gratuities.* (a) The Owner may, by written notice to the Engineer, terminate the right of the Engineer to proceed under this agreement if it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Engineer, or any agent or representative of the Engineer, to any official or employee of the Owner or of EPA with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this agreement. *Provided*, That the existence of the facts upon which the Owner makes such findings shall be in issue and may be reviewed in proceedings pursuant to Clause 6 (Remedies) of this agreement.

(b) In the event this agreement is terminated as provided in paragraph (a) hereof, the Owner shall be entitled (1) to pursue the same remedies against the Engineer as it could pursue in the event of a breach of the contract by the Engineer, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs incurred by the Engineer in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Owner provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this agreement.

17. *Patents.* If this agreement involves research, developmental, experimental, or demonstration work and any discovery or invention arises or is developed in the course of or under this agreement, such invention or discovery shall be subject to the reporting and rights provisions of Subpart D of 40 CFR Part 30, including Appendix B of said Part 30. In such case, the Engineer shall report the discovery or invention to EPA directly or through the Owner, and shall otherwise comply with the Owner's responsibilities in accordance with Subpart D of 40 CFR Part 30. The Engineer hereby agrees that the disposition of rights to inventions made under this agreement shall be in accordance with the terms and conditions of aforementioned Appendix B. The Engineer shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

18. *Copyrights and rights in data.* (a) The Engineer agrees that any plans, drawings, specifications, computer programs, technical reports, operating manuals, or other "Subject Data" (as defined in Appendix C to 40 CFR Part 30) are subject to the rights in the United States, as set forth in said Appendix C, including the right to use, duplicate and disclose, such manuals, etc., in whole or in part, in any manner for any purpose whatsoever, and have others do so. For purposes of this article, "grantee" as used in said Appendix C shall refer to the Engineer. If the material is copyrightable, the Engineer may copyright such, as permitted by said Appendix C, and subject to the rights in the Government as set forth in Appendix C, but the Owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The Engineer shall include provisions appropriate to effectuate the purpose of this condition in all subcontracts expected to produce copyrightable "Subject Data."

(b) All such "Subject Data" furnished by the Engineer pursuant to this agreement are

instruments of his services in respect of the project. It is understood that they are not intended or represented to be suitable for reuse on any other project. Any reuse by the Owner without specific written verification or adaptation by the Engineer will be at the risk of the Owner and without liability or legal exposure to Engineer. Any such verification or adaptation will entitle the Engineer to further compensation at rates to be agreed upon by the Owner and the Engineer.

APPENDIX C-2—REQUIRED PROVISIONS— CONSTRUCTION CONTRACTS

SUPPLEMENTAL GENERAL CONDITIONS

1. General.
2. Audit; Access to Records.
3. Price Reduction for Defective Cost or Pricing Data.
4. Labor Standards.
5. Utilization of Small or Minority Business.
6. Covenant Against Contingent Fees.
7. Gratuities.
8. Patents.
9. Copyrights and Rights in Data.
10. Prohibition Against Listed Violating Facilities.

1. *General.* (a) The Owner and the Contractor agree that the following supplemental general provisions shall apply to the work to be performed under this contract and that such provisions shall supersede any conflicting provisions of this contract.

(b) This contract is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor the U.S. Environmental Protection Agency is a party to this contract. This contract is subject to regulations contained in 40 CFR 35.936, 35.938, and 35.939.

2. *Audit; access to records.* (a) The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this agreement in accordance with accepted business practice, appropriate accounting procedures and practices, and 40 CFR 30.605, 30.805, and 35.935-7. The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of the cost submission required pursuant to 40 CFR 35.938-5 for any negotiated contract or change order and a copy of the cost summary submitted to the Owner. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, Owner, and [the State water pollution control agency] or any of their duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Contractor will provide proper facilities for such access and inspection.

(b) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and contract amendments in excess of \$10,000 affecting the contract price. In the case of all other prime contracts, the Contractor agrees to include paragraphs (a) through (f) of this clause in all his contracts and all tier subcontracts or change orders thereto directly related to project performance which are in excess of \$10,000.

(c) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency (ies).

(d) The Contractor agrees to the disclosure of all information and reports resulting from

access to records pursuant to paragraphs (a) and (b) above, to any of the agencies referred to in paragraph (a), above. Where the audit concerns the Contractor, the auditing agency will afford the Contractor an opportunity for an audit exit conference, and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

(e) Records under paragraphs (a) and (b) above, shall be maintained and made available during performance on EPA grant work under this agreement and until three years from the date of final EPA grant payment for the project. In addition, those records which relate to any "Dispute" appeal under an EPA grant agreement, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

(f) The right of access conferred by this clause will generally be exercised (with respect to financial records) under (1) negotiated prime contracts, (2) negotiated change orders or contract amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price contract, and (3) subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract. However, this right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, such right of access may be exercised under any type of contract or subcontract (1) with respect to records pertaining directly to contract performance, excluding any financial records of the contractor, and (2) if there is any indication that fraud, gross abuse, or corrupt practices may be involved.

3. *Price reduction for defective cost or pricing data.* (This clause is required by EPA and is applicable only to (1) any negotiated prime contract in excess of \$100,000; (2) negotiated contract amendments or change orders in excess of \$100,000 affecting the price of a formally advertised, competitively awarded, fixed price contract; or (3) any subcontract or purchase order in excess of \$100,000 under a prime contract other than a formally advertised, competitively awarded, fixed price contract. However, this clause is not applicable for contracts or subcontracts to the extent that they are awarded on the basis of effective price competition. The Owner may elect not to utilize this clause where any such negotiated contract or subcontract is \$100,000 or less.)

(a) If the EPA Project Officer determines that any price (including profit) negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant sums because the Contractor, or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA Form 5700-41), then such price or cost or profit shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to Article 30 (Arbitration) of the General Conditions of this contract.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any

subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

4. **Labor Standards.** The contractor agrees that "construction" work (as defined by the Secretary of Labor) shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a-276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-33);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity) and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA; and the Engineer further agrees that this contract shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA Form 5720-4) in effect at the time of execution of this agreement.

5. **Utilization of small and minority business.** In accordance with EPA policy as expressed in 40 CFR 35.936-7, the Contractor agrees that small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

6. **Covenant against contingent fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Owner shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7. **Gratuities.** (a) The Owner may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official or employee of the Owner or of EPA with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this contract: *Provided*, That the existence of the facts upon which the Owner makes such findings shall be in issue and may be reviewed in proceedings pursuant to Article 30 (Arbitration) of the General Conditions of this contract.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Owner shall be entitled (1) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Owner provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

8. **Patents.** If this contract involves research, developmental, experimental, or demonstration work, and any discovery or invention arises or is developed in the course of or under this contract, such invention or discovery shall be subject to the reporting and rights provisions of Subpart D of 40 CFR Part 30 and Appendix B to 40 CFR Part 30. In such case, the Contractor shall report the discovery or invention to EPA directly or through the Owner, and shall otherwise comply with the Owner's responsibilities in accordance with Subpart D of 40 CFR Part 30. The Contractor hereby agrees that the disposition of rights to inventions made under this contract shall be in accordance with the terms and conditions of the aforementioned Appendix B. The Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

9. **Copyrights and rights in data.** The Contractor agrees that any plans, drawings, specifications, computer programs, technical reports, operating manuals, or other "Subject Data" (as defined in Appendix C to 40 CFR Part 30) are subject to the rights of the United States, as set forth in Subpart D of 40 CFR Part 30 and in Appendix C to 40 CFR Part 30, including the right to use, duplicate and disclose such manuals, etc., in whole or in part, in any manner for any purpose whatsoever, and have others do so. For purposes of this article, "grantee" as used in Appendix C shall refer to the Contractor. If the material is copyrightable, the Contractor may copyright such, as permitted by Appendix C, and subject to the rights in the Government as set forth in Appendix C, but the Owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts expected to produce copyrightable "Subject Data."

10. **Prohibition against listed violating facilities.** (Applicable only to a contract in excess of \$100,000 and when otherwise applicable pursuant to 40 CFR Part 15.)

(a) The Contractor agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*, as amended by Public Law 92-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, as amended by Public Law 92-500), respectively relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this clause, including this subparagraph (4), in any nonexempt subcontract.

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.* as amended by Public Law 92-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended

(33 U.S.C. 1251 *et seq.*, as amended by Public Law 92-500).

(3) The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are prohibitions in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "Clean Water Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a state under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "Compliance" means compliance with Clean Air or Water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirement of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "Facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

[FR Doc. 76-6299 Filed 3-3-76; 8:45 am]

[FRL 499-3; PP5F1542/R66]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Oryzalin

On October 7, 1974, notice was given (39 FR 36043) that Elanco Products Co., Division of Eli Lilly and Co., PO Box 1750, Indianapolis IN 46206, had filed a pesticide petition (PP 5F1542) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR Section 180.304 be amended by the establishment of a tolerance for residues of the herbicide oryzalin (3,5-dinitro-N',N'-dipropylsulfanilamide) in or on the raw agricultural commodity cottonseed at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated, and the herbicide is considered to be useful for the purpose for which the tolerance is sought. The data show that the effective use of this pesticide would result in no residues above the

validated sensitivity of the analytical method, 0.05 ppm. Since it is not the Agency's practice to establish any tolerance higher than is required for effective use of the pesticide, the level is being lowered from 0.1 to 0.05 ppm. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6 (a) (3) applies. The tolerance of 0.05 ppm for residues in or on cottonseed established by amending § 180.304 of the regulations will protect the public health, and it has been concluded, therefore, that the tolerance should be established as set forth below.

Any person adversely affected by this regulation may, on or before April 5, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective March 4, 1976, Part 180, Subpart C, § 180.304, is amended as set forth below.

Dated: February 27, 1976.

DOUGLAS D. CAMPT,
Acting Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(d)(2))).

Part 180, Subpart C, § 180.304, is amended by establishing a tolerance of 0.05 part per million for residues of the herbicide oryzalin in or on the raw agricultural commodity cottonseed and restructuring the regulation into a tabular format as an aid to the reader as follows:

§ 180.304 Oryzalin; tolerances for residues.

Tolerances are established for residues of the herbicide oryzalin (3,5-dinitro-N,N'-dipropylsulfanilamide) in or on the following raw agricultural commodities:

Commodities	Parts per Million
cottonseed	0.05
soybeans	0.1

[FR Doc.76-6297 Filed 3-3-76; 8:45 am]

Title 43—Public Lands: Interior CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5573]

[C-14974]

COLORADO

Withdrawal for National Forest Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive

Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, for public recreational use:

SAN ISABEL NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Ponderosa Campground

T. 23 S., R. 68 W.,
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 140 acres in Custer County.

Aspen Meadows Campground

T. 24 S., R. 68 W.,
Sec. 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 80 acres in Pueblo County.

Little St. Charles Picnic Ground

T. 24 S., R. 68 W.,
Sec. 8, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 40 acres in Pueblo County.

Porcupine Campground

T. 24 S., R. 68 W.,
Sec. 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 75 acres in Pueblo County.

North Hardscrabble Picnic Ground

T. 21 S., R. 69 W.,
Sec. 31, lot 4, W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 21 S., R. 70 W.,
Sec. 36, lot 16.
T. 22 S., R. 70 W.,
Sec. 1, lot 1.

Containing 122.88 acres in Custer County.

Seraggy Peaks Campground

T. 22 S., R. 69 W.,
Sec. 24, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$.

Containing 120 acres in Custer County.

Squirrel Creek Campground

T. 23 S., R. 69 W.,
Sec. 10, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, S. 10 chs. of lot 13;
Sec. 14, N. 5 chs. of lot 3, N. 10 chs. of lot 4.

Containing 70 acres in Custer County.

Marion Lake Picnic Ground

T. 23 S., R. 69 W.,
Sec. 33, E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 40 acres in Custer County.

Willis Creek Picnic Ground

T. 23 S., R. 69 W.,
Sec. 36, S. 10 chs. of lot 3; N. 5 chs. of lot 8;
lot 5, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 122.49 acres in Custer County.

Amethyst Creek Picnic Ground Addition

T. 24 S., R. 69 W.,
Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 50 acres in Custer County.

Halfmoon Campground Addition

T. 10 S., R. 81 W. (Unsurveyed), Protraction Diagram No. 10, accepted May 10, 1965;
Sec. 24, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing approximately 40 acres in Lake County.

Elbert Creek Camp and Picnic Ground Addition

T. 10 S., R. 81 W. (Unsurveyed), Protraction Diagram No. 10, accepted May 10, 1965;
Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 70 acres in Lake County.

Twin Peaks and Smith Gulch Campground

T. 11 S., R. 81 W.,
Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Except portions of mineral patents estimated to be 6 acres.
Containing approximately 124 acres in Lake County.

Rockdale Campground

T. 12 S., R. 81 W.,
A parcel of land lying in secs. 23 and 24, described by metes and bounds as follows:
Beginning at a point, from which point the junction of Sheep Gulch and Clear Creek bears E., 25 chs.; thence N. 20 chs.; W. 20 chs.; S. 20 chs.; E. 20 chs. to the point of beginning.
Containing 40 acres in Chaffee County.

Independence Pass Observation Site

T. 11 S., R. 82 W.,
A parcel of land lying in sec. 9, described by metes and bounds, as follows:
From a rock constructed Continental Divide marker beside State Highway No. 82, go due west 3.79 chains, to the point of beginning; Thence due S. 13.5 chains, Thence due E. 16.5 chains, Thence due N. 15.0 chains, Thence due W. 16.5 chains, Thence due S. 1.5 chains to point of beginning.

Containing approximately 24.75 acres in Lake and Petkin Counties.

The total areas described aggregate approximately 1,156.20 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
Assistant Secretary
of the Interior.

FEBRUARY 26, 1976.

[FR Doc.76-6171 Filed 3-3-76; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20119; FCC 76-97]

PART 1—PRACTICE AND PROCEDURE PART 15—RADIO FREQUENCY DEVICES

Low Power Communication Devices

Correction

In FR Doc 76-45669 appearing on page 7394 in the issue of Wednesday, Febru-

ary 18, 1976 make the following changes:

On page 7398, the second column, § 15.116(e), the second line should end with the figure "\$10,000." In § 15.118(a) add "tained for a temperature variation of" to the end of the second line.

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-11, Notice 12; Docket No. 73-19, Notice 9]

PART 581—BUMPER STANDARD

Damageability Requirements

This notice establishes a new bumper standard, limiting damage to vehicle bumpers and other vehicle surfaces in low-speed crashes.

The standard, 49 CFR Part 581, is issued under the authority of Title I of the Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 15 U.S.C. 1901-1991. In addition to specifying limitations on damage to non-safety-related components and vehicle surface areas, it also incorporates the safety requirements currently contained in Federal Motor Vehicle Safety Standard No. 215, *Exterior Protection*.

Since the enactment of the Motor Vehicle Information and Cost Savings Act, the NHTSA has issued four proposals to establish a front and rear end damageability standard that fulfills the objectives espoused in the law. Title I (*Bumper Standards*) directs the NHTSA to develop standards which "shall seek to obtain the maximum feasible reduction of costs to the public and to the consumer. . . ." Improving the damage resistance of a vehicle in low-speed impact situations will, in the opinion of Congress, save the consumer a significant amount of money.

During the past several years of ongoing rulemaking in the bumper area, the NHTSA has continued to conduct studies and examine input from all interested persons. The most recent proposal was published March 12 of this year (40 FR 11598). After thoroughly reviewing the available data and comments submitted to the docket, the NHTSA has concluded that the provisions contained in the March notice would constitute a large step towards accomplishment of the goals described in Title I.

On January 2, 1975, the NHTSA proposed a reduction in the impact speeds specified in Standard 215 and proposed in Part 581 (40 FR 10). The NHTSA's proposal was based primarily on the results of two agency-sponsored studies which indicated that the cost and weight of many current production bumpers, in light of inflation and fuel shortages, made the bumpers no longer cost-beneficial. Information presented at public hearings on the notice and comments submitted to the docket brought to light additional data which the NHTSA carefully examined. After reviewing its previous studies in light of this new evidence, the agency concluded that the 5-mph protection level (and the 3-mph corner impact

level associated with it) should not be reduced. In its March 12, 1975, notice (40 FR 11598) the NHTSA fully explained this decision. Comments have been received from Toyo Kogyo, Volkswagen, Nissan, Motor Vehicle Manufacturers Association, Chrysler, General Motors, Toyota, and Gulf & Western urging the NHTSA to reconsider its rejection of the lower impact test speeds proposed in January.

For the reasons discussed in the March *Federal Register* notice the NHTSA has determined that the pendulum and barrier impact speeds should not be reduced and should remain at 5 mph.

General Motors (GM) submitted two documents, dated January 9, 1976, and January 15, 1976, which analyzed the costs and benefits of 1974 bumper systems based on field surveys conducted in Fort Wayne, Indiana and Milford, Michigan. The conclusion reached by GM in these studies was that the 1974 model year bumper systems were not cost-beneficial. They requested, based on the result of this study, that any raising of the current bumper standard requirements be delayed until longer-term benefit-cost analyses are made.

The NHTSA has examined this study and has concluded that the proposed Part 581 damageability standard, which will upgrade the bumper requirements, should be implemented in accordance with the time schedule set forth in this notice. GM in its study has chosen to analyze the cost-effectiveness of bumper systems designed solely for safety component protection. The costs considered by GM have been those occasioned not only by damage to safety-related components, but to non-safety-related vehicle areas, as well. While it may be true that a bumper system that is designed primarily for safety component protection will also provide some degree of protection against non-safety-related damage, it is unreasonable to evaluate the cost-effectiveness of such a system on its capability to perform outside its primary design function. A bumper system designed to comply with Title I would necessarily provide protection to both safety and non-safety-related components and would thereby reduce the degree of damage suffered by most 1974 model vehicles involved in front and rear impacts. The cost-effectiveness of a Title I system, thus, cannot be realistically measured by an examination of 1974 systems which have been designed to provide a lower level of damage protection.

GM gathered data only on its own 1974 model cars and concluded that the impact of Standard 215 on all vehicles has not been cost-beneficial. Conclusions based on such limited data, however, are not sufficient reason for suspending further rulemaking to improve the damage protection capabilities of bumpers. As explained in the March 12, 1975, notice, considerable data have been presented indicating that the bumper systems on some current-model automobiles are heavier and costlier than necessary. This unnecessary weight not only adds to the

initial costs, but also increases the lifetime operating costs of the vehicle. The use of such bumpers, it has been concluded, has been the result of unnecessary design choices by motor vehicle manufacturers. Studies conducted by the NHTSA and Houdaille Industries, Inc., a bumper manufacturer, indicate that bumper systems utilizing current technology and designed to meet the Part 581 damageability requirements need not weigh any more than pre-standard-215 bumper systems. Basing future rulemaking on the results of a cost-benefit analysis utilizing bumper systems that have not been optimized would be unreasonable.

In the March 12, 1975, notice, the NHTSA proposed alternative effective dates for implementation of the initial Part 581 test requirements. The applicable requirements call for restricted surface damage except to components that actually contact the impact ridge of the pendulum test device or that fasten such components to the vehicle chassis frame. Commenters were asked to address the feasibility of satisfying the proposed damage criteria by September 1, 1976, September 1, 1977, or September 1, 1978. Chrysler said it could meet the prescribed damage level by September 1, 1976, but only if certain modifications in the test requirements were made. Volvo also stated that it could comply by September 1976, but warned of a significant cost penalty. Toyo Kogyo and British Leyland stated they could meet a September 1, 1977 effective date. Toyo Kogyo, however, commented that this would occasion high development costs. British Leyland, on the other hand, said that it could satisfy an earlier effective date, but only at significant cost. American Motors, Ford, and Toyota urged a September 1, 1978, effective date saying that amount of lead time was necessary to obtain compliance.

The Insurance Institute for Highway Safety, the National Association of Independent Insurers, and State Farm urged a 1976 effective date citing the need for regulation of damage to vehicle components and surface areas aside from those directly related to safety. The Insurance Institute supported its request for a 1976 effective date by stating that many existing cars are substantially able to meet the initial Part 581 requirements.

In the NHTSA's view, adoption of a 1976 or 1977 effective date would impose serious lead time problems on a number of manufacturers. Based upon information submitted by the automobile industry, bringing vehicles into compliance by September 1, 1976 or 1977, if possible at all, would entail the expenditure of large sums of money for redesign and retooling. A September 1, 1978 effective date would assure satisfactory compliance with the Part 581 requirements and would avoid the high costs that would occur as a result of an earlier effective date.

The NHTSA has, therefore, concluded that a September 1, 1978, effective date should be adopted for implementation of the initial Part 581 damageability re-

quirements. This amount of lead time appears necessary for all manufacturers to come into conformity with the provisions.

Toyo Kogyo, American Motors, Motor Vehicle Manufacturers Association, Chrysler, and Ford urged a delay in the proposed September 1, 1979 effective date for implementation of the "no damage" bumper requirements. Toyo Kogyo requested a 1983 effective date, while the other manufacturers suggested that no upgraded requirements be scheduled until field data have been gathered indicating the success of the interim requirements. The National Association of Independent Insurers, anxious for early implementation of the full range of bumper performance requirements, supported adoption of the proposed 1979 effective date.

The NHTSA has examined all of these comments and has concluded that the September 1, 1979 effective date should be adopted. This would provide a lead time of approximately 4 years, which appears sufficient to bring the vehicles into compliance. Awaiting the results of field data related to the interim requirements is not practicable. The information currently before the agency indicates that the proposed 1979 surface damage limitation is a substantial step towards achieving the level of bumper efficiency described by Congress in the Cost Savings Act. Waiting for the accumulation and analysis of additional information would unnecessarily and unreasonably delay the implementation of Part 581, a standard the agency is directed by law to promulgate.

The NHTSA has proposed in several past notices the adoption of test requirements that would allow the manufacture of vehicles with soft exterior surfaces. Currently, the Standard No. 215 exterior protection standard prohibits contact with Planes A and B of the pendulum test device since those areas represent parts of the vehicle that house safety components such as headlamps. Most vehicles constructed with soft exterior surfaces would not be able to comply with the Standard No. 215 requirements since by their very nature they would yield to the impact of the pendulum. The quality of soft face bumper systems which is not taken into account by the Planes A and B prohibition is that such systems can be constructed in a manner that assures return of the system to its original contours following an impact. The NHTSA proposal would permit contact with the planes at limited force and pressure levels. These force and pressure limitations were intended to assure that the bumper system would yield in a collision to a degree that would minimize damage to the other vehicle's components.

Comments to the proposal to allow contact with Planes A and B focused on that provision's test conditions and its specification of pressure limitations. According to commenters, the prescribed instrumentation of Planes A and B is not practicable since it would be costly with allegedly unreliable test results.

British Leyland, Renault, and Peugeot wanted the agency to clarify the rule by specifying that no instrumentation is necessary on the pendulum where there is no contact during testing with Planes A and B. This fact should be clear based on prior interpretations given by the NHTSA. It has been stated many times in the past that a manufacturer need only exercise due care in assuring that his vehicle will comply with the requirement of a standard when tested by the NHTSA in the manner prescribed. The manufacturer need not conduct the tests prescribed in the standard in order to satisfy this duty. Depending upon the circumstances there may be other means by which he can certify his vehicles' compliance. In the case at issue, the instrumented pendulum would only serve to assure that impact with the planes would not exceed the stated maximum levels. If there is no contact with these planes then obviously the instrumentation would serve no purpose.

Volvo suggested that the provision permitting Planes A and B contact not be added to the standard until a measuring device can be better defined. American Motors, however, presented a suggestion that it contended would significantly simplify the test procedure without diminishing the desired level of vehicle protection. It suggested that the 200-psi limitation be deleted and that a force limitation of 2000 pounds on the combined surfaces of Planes A and B above the impact ridge and 2000 pounds total force on Plane A below the impact ridge be adopted. American Motors stated that the 200-psi specification was unnecessary in light of the damage limitations contained in the standard.

The initial Part 581 damage criteria [proposed to go into effect September 1, 1976, or 1977, or 1978 (made effective by this notice for September 1, 1978)] presented some problems for Volkswagen, American Motors, Chrysler, Volvo, and Ford with respect to the areas in which damage would be permissible. The proposed section (S5.3.8) limits damage to surface areas and safety components, but permits damage to the bumper face bar. The manufacturers argued that damage should also be permitted to cosmetic filler panels, bumper guards, nerf strips, license plate brackets, stone shields, and other components which are not specifically part of the vehicle body. The support for this position is that these components appear to be included in the proposal's description of items that would not be subject to damage limitation during the interim period.

The relevant language of S5.3.8 states that vehicles shall have no damage except to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame. The bumper face bar is defined as any component of the bumper system that contacts the impact ridge of the pendulum test device. Stone shields and cosmetic filler panels would not be excepted from the damage criteria unless they directly at-

tach the bumper face bar to the chassis frame. Based upon the information currently before the agency, it has determined that neither stone shields nor filler panels are intended to serve such a function.

Bumper guards and nerf strips which are located in a position where they are contacted by the impact ridge of the test device would be considered as a bumper face bar with the lateral metal component (commonly known as a bumper) considered as a component that directly attaches the bumper face bar to the vehicle chassis frame. This reasoning would also apply to bumper systems that have a layer of plastic, rubber, or some other material covering the underlying load bearing structure. The covering material would be considered the bumper face bar and the underlying structure would be considered a component that attaches the face bar to the chassis frame.

Toyo Kogyo commented that the damage criteria contained in S5.3.8 would necessitate the addition of 13 pounds to the bumper which would change the emission rank of some cars and thereby increase their fuel consumption from 4 to 8 percent. The cost of counteracting the increased fuel consumption would, according to Toyo Kogyo, range from \$100 to \$200 per car.

The additional lead time allowed by the September 1, 1978 date for implementation of the initial damage criteria should enable Toyo Kogyo to concentrate its efforts on minimizing any increase in the weight of complying vehicles.

State Farm expressed concern over the application of the S5.3.8 damage criteria to vehicles with soft face systems. They asserted that allowing damage to the bumper face bar and associated components would, in the case of soft face bumper systems, permit damage to the entire front and rear end of the vehicle. This could occur since some soft-face construction utilizes a single large component in the front and rear of the vehicle that takes on the appearance of the vehicle body, but by definition would be the bumper face bar. It was State Farm's suggestion that damage be permitted only to those portions of the bumper face bar that actually come in contact with the impact ridge of the pendulum test device. This would in their opinion avoid the possibility of widespread damage to areas not actually contacted.

The NHTSA finds State Farm's concern unfounded. The 2000-pound total force limitation to the combined surfaces of Planes A and B of the pendulum test device will have the effect of preventing any substantial damage to the areas mentioned by State Farm. For this reason, the NHTSA denies State Farm's request to revise the language of S5.3.8.

Ford Motor Company criticized the provision prohibiting breakage or release of fasteners or joints (S5.3.9) as unreasonable. It asserted that efficient production requires keeping to a minimum the

efforts involved in installing moldings and insignia. Of importance, in their opinion, is assuring that the moldings and insignia resist "popping" on rough roads and during minor parking lot impacts. However, they assert that the performance level that would be achieved by S5.3.9 is unreasonably high since, in their view, moldings which pop off can be easily reinstalled with minimal cost and inconvenience to the car owner.

The NHTSA disagrees with Ford's argument. To allow the type of damage described by Ford would be partially to defeat the effectiveness of the standard. Ornaments that fall off and trim strips that pop off must be repaired if the value of the vehicle is to be maintained. The time and money invested by an individual who must obtain such a repair following a relatively minor collision can be avoided if the manufacturer is required to comply with the performance level of S5.3.9. The NHTSA disagrees with Ford's assessment of the time, cost, and effort involved in obtaining such repairs. The agency has therefore determined that to carry out the Congressional intent to reduce the cost of low-speed accidents, it must require ornaments and trim strips to be immune from damage under the test conditions of the standard.

There were numerous comments on the damageability requirements proposed to go into effect on September 1, 1979. Many of the manufacturers suggested a change in the maximum dent limitation (S5.3.11) and requested that a certain amount of bumper set be allowed. In its March 12 notice, the NHTSA proposed to limit damage to the bumper face bar to permanent dents no greater than $\frac{3}{8}$ inch from the original contour. The proposed $\frac{3}{8}$ -inch deviation was based on a Louis Harris & Associates survey of public reactions to bumper damage at various depths. This survey was commissioned by Houdaille Industries, Inc., a manufacturer of bumpers.

International Nickel Co. and Toyota requested that the provision be revised to allow a $\frac{1}{4}$ -inch deviation from the original bumper contour. In light of the results of the Harris survey, which indicated that consumers did not consider damage to be significant until the dents reached a depth of $\frac{1}{4}$ to $\frac{1}{2}$ inch, the NHTSA denies their request and adopts the proposed $\frac{3}{8}$ -inch limitation. To allow deviations to a depth of $\frac{3}{4}$ inch would be to disregard the results of the survey by permitting damage which would be considered significant by many consumers. This would undercut achievement of the purpose of the Part 581 bumper standard to reduce consumer loss of time and money.

Toyo Kogyo, American Motors, International Nickel, and Houdaille urged that the provision (S5.3.11) be amended to permit a certain degree of bumper set. It was pointed out that the impact to a bumper during testing can result in two types of contour change, dent and set. Bumper set is an overall movement or flattening of the bumper face bar which

when minor is rarely detectable by the unaided human eye. Under the currently proposed provision the $\frac{3}{8}$ -inch deviation limitation would apply to both setting and denting, with the total of these two types of deviations limited to $\frac{3}{8}$ inch. Thus, the permissible degree of dent deviation would actually be less than $\frac{3}{8}$ inch. Compliance with such a requirement would, according to commenters, result in the production of heavier and more costly bumper systems.

Since the NHTSA has based its $\frac{3}{8}$ -inch deviation limitation on consumer reaction to a dent of that depth, it agrees with commenters that a certain degree of bumper set could be permitted in addition to dent without visibly altering the level of allowable bumper damage. Minor set is generally imperceptible. Thus, allowing it to occur during impact tests would not significantly reduce the level of performance currently assured in the proposed provision. The NHTSA hereby amends Part 581 to permit $\frac{3}{4}$ inch of bumper set in addition to dents of $\frac{3}{8}$ inch.

Consumers Union asserted that the NHTSA should not require near-zero level of damage on all cars since such a regulation would prevent manufacturers from offering as an option cars with cheap, lightweight, expendable bumpers which meet the standard's other requirements. The NHTSA finds no merit in this suggestion and for the following reasons denies the request. First of all, to make compliance with the "no damage" provisions optional would be to disregard the mandate of Congress in the Cost Savings Act, which instructs the agency to promulgate a standard that will reduce consumer costs occasioned by bumper damage. Second, cars produced with lower performance bumpers would be less expensive than those meeting the Part 581 criteria. They might, therefore, seem more appealing to consumers who are unaware of the costly damage that might be incurred during low-speed collisions. The purpose of Title I of the Cost Savings Act is to protect consumers from such an eventuality. Third, mass production is the factor that will keep manufacturing costs at a low level. If only some vehicles are constructed with damage-resistant bumpers, the cost of those vehicles is likely to be higher than necessary because of this factor.

Nationwide Mutual Insurance Co. and the National Association of Independent Insurers expressed concern that the $\frac{3}{8}$ -inch deviation limitation was too lenient. Nationwide felt that the $\frac{3}{8}$ -inch deviation constituted a relaxation of the NHTSA's previous position that only a dimple should be allowed to the bumper. The NHTSA has concluded, based on the Harris survey, that a dent $\frac{3}{8}$ inch in depth would be inconsequential to most car owners. Prescribing such a deviation as the maximum allowable in a 5 mph barrier or pendulum impact is, therefore, in keeping with the goal of reducing economic loss occasioned by low-speed collisions.

The National Association of Independent Insurers suggested that the $\frac{3}{8}$ -inch deviation be upgraded to require that the dent extend over a minimum area in a dishing fashion which would be less noticeable. This suggestion is rejected since the $\frac{3}{8}$ -inch provision has been fully supported as providing a damage level that fulfills the goals of Title I. In addition, prescribing a dishing effect as a necessary element for compliance would not take into account the various types of impacts to which a vehicle is subject.

State Farm urged that the prohibition against separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded be extended to cover the bumper face bar during barrier impact tests. Under the current proposal these surface damage limitations would apply only to parts of the vehicle other than the bumper face bar. State Farm asserted that the limitation of application of the no-surface-damage requirements to vehicle surfaces other than the bumper face bar was intended to accommodate the pendulum impact. They therefore see no justification for applying the same limitation during barrier impact testing.

The NHTSA denies State Farm's request. While Both barrier and pendulum impacts can cause some chipping or flaking of chrome or soft-face material (depending upon the type of system being tested), such damage is insignificant. Application of a no surface damage requirement to the bumper face bar would probably result in manufacturers having to upgrade their plating process or use more sophisticated covering materials to assure compliance. This could result in significant cost increases with little, if any, increase in benefits.

Both State Farm and British Leyland requested that S7.1.1 of Part 581 be clarified to indicate that the pendulum impacts from 16 and 20 inches are intended to be inclusive. Since compliance with the pendulum impact requirements at any height between 16 and 20 inches would necessitate meeting the damage criteria at heights infinitesimally close to 16 and 20 inches, the clarification requested by these commenters is insubstantial. The NHTSA, however, amends S7.1.1 to include the 16- and 20-inch heights as subject to the damage criteria, since some persons apparently considered it unclear.

Chrysler requested a modification of the Part 581 longitudinal pendulum impact test to specify that the required pendulum impacts be at least 12 inches apart laterally and 1 inch apart vertically from any prior impact. The request is denied, since such a modification would prohibit more than one hit in the same area of the bumper. Under the current Part 581 proposal, an impact within 12 inches laterally must be separated from any prior impact by 2 inches, vertically. Based upon available accident data, the NHTSA has concluded that a vehicle will be involved in an average of approximately 2 to 3 bumper collisions at speeds

of 5 mph or less in its 10-year life. On an individual vehicle basis, the distribution or the area of the bumper affected by these impacts cannot be predicted. In order to assure a performance level that corresponds with real-world conditions, the NHTSA has determined that each bumper must be capable of meeting the prescribed damage criteria when subjected to more than one pendulum impact in the same area of the bumper.

A substantial number of comments were received from individuals concerned that the Part 581 bumper standard might in some way limit the recycling of bumpers in the aftermarket. This concern is unfounded, since the requirements contained in Part 581 ensure that a wide variety of materials can continue to be used in bumper systems. The provisions in no way restrict the use of metals in bumper systems.

Chrysler argued that the pendulum test device should be used only as a means of assuring uniform bumper height. In its opinion, the pendulum impact test does not constitute an appropriate means of evaluating bumper damageability since the pendulum is rigid, heavy, and aggressive.

The NHTSA does not find Chrysler's argument meritorious. To delete the pendulum impact test as a means of establishing bumper damageability resistance would be to lower considerably the proposed level of performance currently contained in Part 581. The pendulum impact requirements assure that a vehicle is capable of involvement in various types of low-speed collisions without sustaining significant damage. They impose localized stresses at various points on the bumper face bar while the barrier impacts only establish a vehicle's overall ability to withstand impacts at specified energy levels, assuring the basic strength of the front and rear bumper. In order to satisfy its Congressional mandate by reducing the economic loss occasioned by low-speed collision damage, the NHTSA has concluded that the Part 581 bumper standard must prescribe test requirements that measure a vehicle's damageability characteristics in both barrier and pendulum-type stress situations.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended as follows:

1. Federal Motor Vehicle Safety Standard No. 215, *Exterior Protection* (49 CFR 571.215) is revoked.

2. A new Part 581, *Bumper Standard*, is added to read as set forth below.

Effective date: September 1, 1978.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912) delegation of authority at 49 CFR 1.51).

Issued on February 27, 1976.

JAMES B. GREGORY,
Administrator, National Highway
Traffic Safety Administration.

S1. Scope. This standard establishes requirements for the impact resistance of vehicles in low speed front and rear collisions.

S2. Purpose. The purpose of this standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions.

S3. Application. This standard applies to passenger motor vehicles other than multipurpose passenger vehicles.

S4. Definitions. All terms defined in the Motor Vehicle Information and Cost Savings Act, P.L. 92-513, 15 U.S.C. 1901-1991, are used as defined therein.

"Bumper face bar" means any component of the bumper system that contacts the impact ridge of the pendulum test device.

S5. Requirements.

S5.1 Vehicles manufactured on or after September 1, 1978. Each vehicle manufactured on or after September 1, 1978, shall meet the damage criteria of S5.3.1 through S5.3.9 when impacted by a pendulum-type test device in accordance with the procedures of S7.2 under the conditions of S6, at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of S7.1 at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

S5.2 Vehicles manufactured on or after September 1, 1979. Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of S5.3.1 through S5.3.7, and S5.3.9 through S5.3.11, when tested in accordance with the requirements of S5.1.

S5.3. Protective criteria.

S5.3.1 Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (§ 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

S5.3.2 The vehicle's hood, trunk, and doors shall operate in the normal manner.

S5.3.3 The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall operate in the normal manner.

S5.3.4 The vehicle's exhaust system shall have no leaks or constrictions.

S5.3.5 The vehicle's propulsion, suspension, steering, and braking systems shall remain in adjustment and shall operate in the normal manner.

S5.3.6 A pressure vessel used to absorb impact energy in an exterior protection system by the accumulation of gas pressure or hydraulic pressure shall not suffer loss of gas or fluid accompanied by separation of fragments from the vessel.

S5.3.7 The vehicle shall not touch the test device, except on the impact ridge shown in Figures 1 and 2, with a force that exceeds 2000 pounds on the com-

bined surfaces of Planes A and B of the test device.

S5.3.8 For vehicles manufactured from September 1, 1978 to August 1, 1979, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings, or other covering materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact, except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame.

S5.3.9 Except as provided in S5.3.8, there shall be no breakage or release of fasteners or joints.

S5.3.10 For vehicles manufactured on or after September 1, 1979, the exterior surfaces, except for the bumper face bar, shall have no separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact.

S5.3.11 Thirty minutes after completion of each pendulum and barrier impact test, the bumper face bar shall have—

(a) No permanent deviation greater than 3/4 inch from its original contour and position relative to the vehicle frame; and

(b) No permanent deviation greater than 3/8 inch from its original contour on areas of contact with the barrier face or the impact ridge of the pendulum test device measured from a straight line connecting the bumper contours adjoining any such contact area.

S6. Conditions. The vehicle shall meet the requirements of S5 under the following conditions.

S6.1 General.

S6.1.1 The vehicle is at unloaded vehicle weight.

S6.1.2 The front wheels are in the straight ahead position.

S6.1.3 Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

S6.1.4 Brakes are disengaged and the transmission is in neutral.

S6.1.5 Trailer hitches are removed from the vehicle.

S6.2 Pendulum test conditions. The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

S6.2.1 The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C." The impact ridge and the surfaces in Planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. From the point of release of the device until the onset of rebound, the pendulum suspension system holds Plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for S7.1, longitudinal; for S7.2, at

an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

S6.2.2 With Plane A vertical, the impact line shown in Figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

S6.2.3 The effective impacting mass of the test device is equal to the mass of the tested vehicle.

S6.2.4 When impacted by the test device, the vehicle is at rest on a level rigid concrete surface.

S6.3 **Barrier Test Condition.** At the onset of a barrier impact, the vehicle's engine is operating at idling speed in accordance with the manufacturer's specification. Vehicle systems that are not necessary to the movement of the vehicle are not operating during impact.

S7. Test Procedures.

S7.1 Longitudinal Impact Test Procedures.

S7.1.1 Impact the vehicle's front surface and its rear surface two times each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

S7.1.2 For impacts at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

S7.1.3 For impacts at a height between 20 inches and 16 inches, place the test device shown in Figure 2 so that Plane A is vertical and the impact line is horizontal at a height within the range.

S7.1.4 For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

S7.1.5 For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes Plane A of the test device and with the test device in-board of the vehicle corner test positions specified in S7.2.

S7.1.6 Move the test device away from the vehicle, then release it to impact the vehicle.

S7.1.7 Perform the impacts at intervals of not less than 30 minutes.

S7.3 Corner impact test procedure.

S2.1 Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner once each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

S7.2.2. For an impact at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

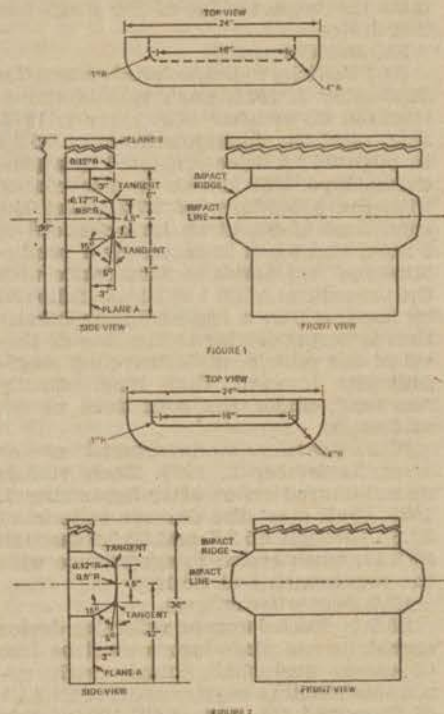
S7.2.3 For an impact at a height between 16 inches and 20 inches, place the test device shown in Figure 2 so that

Plane A is vertical and the impact line is horizontal at a height within the range.

S7.2.4 Align the vehicle so that a vehicle corner touches, but does not move, the lateral center of the test device with Plane A of the test device forming an angle of 60 degrees with a vertical longitudinal plane.

S7.2.5 Move the test device away from the vehicle, then release it to impact the vehicle.

S7.2.6 Perform the impacts at intervals of not less than 30 minutes.



[FR Doc.76-6080 Filed 2-27-76; 2:38 pm]

[Docket No. 73-20; Notice 9]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Fuel System Integrity

This notice clarifies the effective date of the change in Standard No. 301-75 (49 CFR 571.301-75) from a 15-minute to a 30-minute fuel spillage measurement period following cessation of motion in barrier crash tests.

Until August 1975, S5.4 of Standard No. 301-75 specified a 15-minute fuel spillage measurement period for the barrier crash test requirements that would become effective September 1, 1975. To allow more time for leaks to be located and rates of flow to be established, that period was extended to 30 minutes in Notice 6 (40 FR 33036, August 6, 1975; correction of section numbers at 40 FR 37042, August 25, 1975). Notice 6 set the effective date of the change as September 1, 1975.

In response to a petition for reconsideration filed by American Motors Corporation, the NHTSA in Notice 7 (40 FR 47790; October 10, 1975) delayed for 1

year the effective date of that change, thereby establishing the following scheme: a 15-minute period would be used in applying the standard to vehicles manufactured before September 1, 1976, while a 30-minute measurement period would be used for vehicles manufactured after that date.

In Notice 8, which was published on October 15, 1975 (40 FR 48352), the loading conditions of S6.1 were revised, effective immediately, and the standard was extended to apply to school buses with a GVWR in excess of 10,000 pounds, effective July 15, 1976. Because these amendments were made by republishing the entire text of the standard, it appeared that the effective date of the change from a 15-minute measurement period to a 30-minute measurement period had been advanced from September 1, 1976, to July 15, 1976, for all vehicles. The NHTSA did not intend such an advancement, and this notice amends the standard to reestablish the September 1, 1976, effective date for vehicles other than school buses with a GVWR greater than 10,000 pounds.

The following corrections of Notice 8 are also made: the standard is designated as "Standard No. 301-75" and typographical errors in S6.4 and S7.5.2 are corrected.

In consideration of the foregoing, § 571.301 of 49 CFR Part 571 (Standard No. 301, Fuel System Integrity), as published in the issue of October 15, 1975 (40 FR 48352), is redesignated as § 571.301-75 and amended as follows:

1. S5.5 is amended to read:

S5.5 Fuel spillage: **Barrier crash.** Fuel spillage in any fixed or moving barrier crash test shall not exceed 1 ounce by weight from impact until motion of the vehicle has ceased, and shall not exceed a total of 5 ounces by weight in the 5-minute period following cessation of motion. For the subsequent 25-minute period (for vehicles manufactured before September 1, 1976, other than school buses with a GVWR greater than 10,000 pounds; the subsequent 10-minute period), fuel spillage during any 1-minute interval shall not exceed 1 ounce by weight.

2. In S6.4, the word "of" is inserted after the words "an impact crash".

3. In S7.5.2, the first equation in the last sentence is amended to read:

$$I_s = 271 \pm 13.6 \text{ slug ft.}^2$$

Effective dates: As set forth in S5 of the standard. Changes indicated in the text of the Code of Federal Regulations should be made immediately.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 108, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392 note); delegation of authority at 49 CFR 1.50.)

Issued on February 25, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76-5954 Filed 3-3-76; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 261; Special Permission Nos. 70-275; 73-123]

TARIFFS CONTAINING JOINT RATES AND THROUGH ROUTES

Transportation of Property Between Points in the United States and Points in Foreign Countries

Correction

FR Doc. 76-5248, appearing at page 8049, in the issue for Tuesday, February 24, 1976, on page 8050, in § 1300.67, several paragraphs were misplaced. For the convenience of the reader, the document is republished in its entirety.

FEBRUARY 19, 1976.

The above document published in the FEDERAL REGISTER on February 17, 1976, at 41 FR 7106, contained several typographical errors and two pages were inadvertently omitted. This document is being republished in its entirety to reflect these corrections.

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 30th day of January 1976.

Upon consideration of the record in the above-captioned proceeding, including the petitions for reconsideration of the report and order of the Commission on further reconsideration, served July 29, 1975, filed August 18, 1975, by the Chairman of the Federal Maritime Commission, and August 27, 1975, by IML Freight, Inc.; and

It appearing, That, after review of the said petitions, the Commission has modified the regulations issued in the prior reports entered in this proceeding, the most recent report being printed at 350 I.C.C. 361;

Wherefore:

It is ordered, That, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. § 553), and sections 1(1)(a), 6(5), 6(6), 6(12), 202(a), 203(a)(11), 216(c), 217(a), 220(a), 302, 303, 305(b), 306, and 313 of the Interstate Commerce Act in 49 CFR Chapter X.

(1) Part 1300 be, and it is hereby, amended and revised as follows:

(a) Paragraph (a) (1) of § 1300.0 (preamble to Tariff Circular No. 20) is amended to read as set forth in appendix A of the said report;

(b) § 1300.67 (Rule 67 of Tariff Circular No. 20) is revised to read as set forth in appendix C of the said report;

(The provisions of Part 1300 issued under sec. 12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; 49 U.S.C. 12, 304, and secs. 5, 6, 24 Stat. 380, as amended, 49 Stat. 560, as amended; 49 U.S.C. 5, 6, 317.)

(2) Part 1305 be, and it is hereby, amended as follows:

(a) § 1305.0 (preamble to Rule 33 of Tariff Circular No. 20) is amended to read as set forth in appendix B of the said report;

(The provisions of Subpart A of Part 1305 issued under sec. 6, 24 Stat. 380, sec. 12, 24 Stat. 383; 49 U.S.C. 6, 12.)

(3) Part 1307 be, and it is hereby, amended and revised as follows:

(a) § 1307.22 (preamble to Tariff Circular MF No. 3) is amended to read as set forth in appendix D of the said report;

(b) § 1307.49 is added as a new section in the said part as set forth in appendix E of the said report;

(The provisions of Subpart B of Part 1307 issued under secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, as amended, 52 Stat. 1238, as amended; 49 U.S.C. 304, 317, 310a.)

(4) Part 1308 be, and it is hereby, amended and revised as follows:

§ 1308.0 (preamble to Tariff Circular No. 22) is amended by changing paragraph (b) thereof to read as set forth in appendix F of the said report; and paragraph (c) is added as a new paragraph to the said section as set forth in appendix F of the said report;

(The provisions of Part 1308 issued under secs. 304, 305, 54 Stat. 933, 935; 49 U.S.C. 904, 906.)

It is further ordered, That the petitions be, and they are hereby, denied in all other respects for the reason that sufficient grounds have not been presented to warrant granting the action sought.

It is further ordered, That Special Permission No. 70-275 be, and it is hereby, rescinded.

It is further ordered, That Special Permission No. 73-123, and amendments thereto, be, and they are hereby, rescinded.

It is further ordered, That all prior orders in Ex Parte No. 261 be, and they are hereby, vacated and set aside.

It is further ordered, That this order shall become effective 35 days from the date of service, and shall remain in effect until modified or revoked in whole or in part by further order of this Commission.

And it is further ordered, That notice of this order shall be given to the general public by mailing a copy of this order to each party of record in this proceeding, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

NOTE: While this order does vacate and set aside prior orders in Ex Parte No. 261, we hereby affirm the finding in the prior report that rule 66 of Tariff Circular No. 20 applies only to minimum carloads and not to minimum containerloads.

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY HEREWITH

§ 1300.0 General provisions; definitions.

(a) *General application; conformation to rules; reissue.*

(1) This part contains regulations issued by the Interstate Commerce Commission, under authority of section 6 of the Interstate Commerce Act, as amended, to govern the construction and filing of freight rate tariffs and classifications of railroads, water carriers and pipeline companies filing under section 6 of the act, and, under authority of sections 217 and 306 of the act, to govern the construction and filing of freight rate tariffs and classifications naming or governing joint rates and routes over motor and water carriers jointly with such carriers subject to part I of the act. The regulations in this part shall also govern the construction and filing of tariffs naming through routes and joint rates over the lines of common carriers by railroad, water, or pipeline, or by railroad jointly with common carriers by motor vehicle, subject to the Interstate Commerce Act, on the one hand, and vessel-operating common carriers by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, for the transportation of property between any place in the United States and any place in a foreign country. See § 1300.67.

PART 1305—POSTING TARIFFS AT STATIONS

§ 1305.0 Application—posting of tariffs defined.

(a) The regulations in this subpart shall also govern the posting (by carriers subject to the jurisdiction of the Interstate Commerce Commission) of any tariff containing a through route and joint rate over the lines of a common carrier by railroad, pipeline, or water, or by railroad jointly with a common carrier by motor vehicle, subject to the Interstate Commerce Act, on the one hand, and a vessel-operating common carrier by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, and all other tariffs governing the application of the rate tariff, for the transportation of property between any place in the United States and any place in a foreign country. The carrier subject to the jurisdiction of this Commission receiving shipments at a port for delivery to points in the United States under joint through rate and route arrangements shall post at its station at such port the tariffs naming such rates and its governing tariffs. See § 1300.67.

(b) The term "post" as used in this part means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this part includes tariff supplements or amendments.

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY HEREWITH

§ 1300.67 Export and import traffic—ocean carriers.

(a) *Ocean carriers not subject to Act.* Common carriers by water, or conferences of such carriers, engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, that operate between ports of the United States and foreign countries are not subject to the terms of the Interstate Commerce Act or to the jurisdiction of the Interstate Commerce Commission.

(b) Through routes and joint rates.

(1) A common carrier by railroad, pipeline, or water, or a common carrier by railroad jointly with a common carrier by motor vehicle, subject to the Interstate Commerce Act (hereinafter referred to in this section as the domestic carrier), may establish a through route and joint rate with a vessel-operating common carrier by water engaged in the foreign commerce of the United States (hereinafter referred to in this section as the ocean carrier), as defined in the Shipping Act, 1916, for the transportation of property between any place in the United States and any place in a foreign country. Every tariff naming such a through route and joint rate shall be filed with this Commission. The tariff may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or the duly appointed tariff publishing agent of such carriers.

(2) The tariff shall be constructed, filed, and posted in conformity with the Interstate Commerce Act, and, except as otherwise specifically authorized, with the regulations in Parts 1300 and 1305 (regulations in both parts included in Tariff Circular No. 20) of this chapter. The tariff shall be printed in the English language, include the names of all participating carriers, a description of the services to be performed by each participating carrier, a statement of the joint rate, and a clear and definite statement of the division, rate, or charge to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff. The division, rate, or charge accruing to the domestic carrier must be shown in terms of lawful money of the United States. If shipments and/or loaded containers are to be permitted to be aggregated which are rated under more than one tariff published by the carrier or for its account, each tariff so affected must contain a specific rule, providing for the aggregation in connection with the statement of the domestic carrier's divisions and identifying by ICC designation each of the other tariffs. A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent. If a tariff provides less-than-carload, less-than-container-

load, or less-than-trailerload service, such service must be defined. If the tariff provides containerload rates, such rates must be made subject to a specified minimum weight or minimum measure per container, or a specified minimum charge per shipment per container, and a maximum weight per container. Where the freight is to be packed (loaded) or unpacked (unloaded) into or from the containers by the domestic carrier, the tariff must clearly state that the joint rate includes this service or must provide a separate charge to apply when said service is provided.

(3) Rates or charges may be stated to apply in a unit other than a United States unit provided the unit is defined in the tariff where used. The International System of Units (SI) (the metric system) may be used and need not be defined. A rate or charge applying on a unit of measurement other than weight may be published, but if the tariff also includes a rate or charge applying on a unit of weight on the same traffic, the charges on the weight basis must alternate with the charges on the measurement basis other than weight. In every case the tariff shall provide a definite method for determining the measurement of the shipment and the applicable charges. "Cargo, N.O.S." may be provided as a commodity description provided the term is clearly defined in the tariff where used. Tariffs governing the application of the rate tariff need not show a carrier as a participant when none of the provisions therein apply for such carrier's account.

(4) Allowances, cargo administrative charges, or reductions shall not be provided for payment to shippers or other parties for services performed by or facilities furnished by other than the carriers parties to the through transportation unless (i) such carriers by tariff publication hold themselves out to perform such services and furnish such facilities, (ii) such carriers are able to perform such services and furnish such facilities upon reasonable demand, and (iii) the performance of such services and furnishing of such facilities are included in the through joint rate or charge. This subparagraph does not apply where such provisions do not affect the division, rate, or charge accruing to the domestic carrier or the services performed by such carrier.

(5) A domestic carrier desiring to become a participant in a tariff filed in the name of a conference of ocean carriers, which conference does not publish as an agent, must give to its connecting ocean carrier participating in such conference tariffs a concurrence in tariffs issued and filed by the ocean carrier or the conference, or both. A limited concurrence may provide for only those limitations authorized in § 1300.19 of this chapter. The concurrence forms prescribed by § 1300.19 shall be modified to show that the authority extends to amendments to the tariff(s) and extends to tariffs filed in the name of the conference, and to show the types

of tariffs (such as tariffs containing joint rail-ocean rates, joint rail-motor-ocean rates, et cetera) in which the domestic carrier desires to participate. Powers of attorney must not be executed unless the conference publishes as an agent.

(6) The following changes may be published to become effective upon a specified date not prior to the date filed with the Commission in Washington, D.C., provided the division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge does not change.

1. A change in a published rate, charge, rule, regulation, or other provision which results in a reduction or in no change in charges. This includes a change in a rate or charge which results in lessening or canceling a proposed (published but not yet effective) increase.

2. The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or in no change in charges. The tariff must contain a cargo, N.O.S. rate or similar general cargo rate, which rate would otherwise be applicable to the specific commodity. The specific commodity rate must be equal to or lower than the cargo, N.O.S. or general cargo rate.

Except as otherwise provided in this subparagraph, no new or initial rate, charge, rule, regulation, or other provision and no new point of origin or destination may be published upon less than 30 days' notice. In no case may the establishment of or a change in a division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge become effective upon less than 30 days' notice.

(7) If a tariff includes charges for terminal services, canal tolls, or additional charges not under the control of the carrier or conference, which carrier merely acts as a collection agent for the charges, and the agency making such charges to the carrier increases the charges without notice or without adequate notice to the carrier or conference, such charges may be increased in the tariff by specific publication effective upon a specified date not prior to the date filed with the Commission, in Washington, D.C., whether included in the joint rate or separately stated. If the change occurs in the division, rate, or charge accruing to the domestic carrier, the amendment must contain a statement explaining the change.

(8) Every change made under authority of § 1300.67(b) (6) or (7) must be shown in an amendment (a supplement if the tariff is in bound form or a loose-leaf page if the tariff is in loose-leaf form) to the tariff. The rates, charges, rules, regulations, or other provisions authorized to be changed thereunder may be changed without their having been effective for 30 days prior to the effective date of the change.

(9) The regulations in § 1300.9(k) of this chapter—Suspension of Tariff Schedules—shall govern only when the operation of the division, rate, or charge accruing to the domestic carrier or any provision governing the division, rate, or

charge or the service performed by such carrier is suspended by an order of this Commission.

(10) The following reference marks may be used in the exact form shown for the purposes indicated and may not be used for any other purpose:

(R) to denote reductions.

(A) to denote increases.

(C) to denote changes in wording which result in neither increases nor reductions in charges.

An explanation of these reference marks must be provided in the tariff in which used.

(c) *Port combination basis.* Domestic and ocean carriers may enter into joint rate arrangements, as authorized by paragraph (b) of this section, and domestic carriers may at the same time maintain in effect rates applicable only from and to the ports, usable in combination with ocean carriers' independently established rates. Publication of such rates by the domestic carrier shall be subject to the following:

(1) The domestic carriers shall file their rates to the ports and from the ports, and such rates must be the same for all, regardless of which ocean carrier may be designated by the shipper, except as otherwise provided by section 28 of the Merchant Marine Act (41 Stat. 988, 46 U.S.C. 884).

(2) When the domestic carriers publish rates which are indicated to apply only on export or import traffic, the tariffs containing such rates shall specify by inclusion or exclusion the countries to or from which traffic subject to such rates shall move, regardless of whether such countries are, or are not, adjacent to the United States. Tariffs shall also specify whether or not properly destined to or from which traffic subject to such rates will apply on traffic destined to or coming from them.

(3) As a matter of convenience to the public, the domestic carriers may also publish as information in their tariffs the ocean carriers' rates or charges that will apply to or from a foreign country in connection with the domestic carriers' rates. When this is done, the ocean carriers' rates or charges are in no manner subject to the jurisdiction of this Commission, but the rates of the domestic carriers applying to or from the ports are subject to all provisions of the Interstate Commerce Act and to this Commission's regulations.

(d) *Through export and import billing.* Export and import shipments may be forwarded under through billing. Through bills of lading must clearly separate the liability of the carriers included therein, where different, and must show (1) the tariff rates or charges of the domestic carriers to or from the port or (2) the joint rates or charges when such rates or charges are established and are named in tariffs on file with this Com-

mission as provided in paragraph (b) of this section. The name of the domestic carrier shall appear in a prominent place on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide for the use of a specified kind of bill of lading shall reproduce all of the terms and conditions thereof.

Cross Reference: For regulations governing the posting of freight tariffs of common carriers by rail, water, and pipeline, including tariffs containing joint motor-rail or motor-rail-water rates, see Subpart A of Part 1305 of this chapter.

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATION OF MOTOR CARRIERS

§ 1307.22 Application of regulations.

(a) The regulations in Subpart B will also apply to tariffs containing joint rates of common carriers of property by motor vehicle and common carriers by water subject to Part III of the Interstate Commerce Act, other than railroad-owned or railroad-controlled water carriers.

(b) The regulations in Subpart B will also apply to tariffs containing through routes and joint rates over the lines of common carriers by motor vehicle or by motor vehicle jointly with common carriers by water whether or not the water carriers are railroad-owned or railroad-controlled, subject to the Interstate Commerce Act, on the one hand, and vessel-operating common carriers by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, for the transportation of property between any place in the United States and any place in a foreign country. See § 1307.49.

(c) The regulations in Subpart B will not apply (i) to tariffs containing joint rates between motor carriers, on the one hand, and, on the other hand, common carriers by rail or by water when such water carriers are railroad-owned or railroad-controlled and operate under the provisions of section 5(16) of the Interstate Commerce Act; or (ii) to tariffs containing joint motor-rail-water rates whether or not the water carrier is railroad-owned or railroad-controlled. See paragraph (b) of this section for exception as to ocean carriers.

§ 1307.49 Export and import traffic—ocean carriers.

(a) *Ocean carriers not subject to Act.* Common carriers by water, or conferences of such carriers, engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, that operate between ports of the United States and foreign countries are not subject to the terms of the Interstate Commerce Act or to the jurisdiction of the Interstate Commerce Commission.

(b) *Through routes and joint rates.*

(1) A common carrier by motor vehicle jointly with a common carrier by water, subject to the Interstate Commerce Act (hereinafter referred to in this section as the domestic carrier), may

establish a through route and joint rate with a vessel-operating common carrier by water engaged in the foreign commerce of the United States (hereinafter referred to in this section as the ocean carrier), as defined in the Shipping Act, 1916, for the transportation of property between any place in the United States and any place in a foreign country. Every tariff naming such a through route and joint rate shall be filed with this Commission. The tariff may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or the duly appointed tariff publishing agent of such carriers.

(2) The tariff shall be constructed, filed, and posted in conformity with the Interstate Commerce Act, and, except as otherwise specifically authorized, with the regulations in Subpart B of Part 1307 (Tariff Circular MF No. 3) of this chapter. The tariff shall be printed in the English language, include the names of all participating carriers, a description of the services to be performed by each participating carrier, a statement of the joint rate, and a clear and definite statement of the division, rate, or charge to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff. The division, rate, or charge accruing to the domestic carrier must be shown in terms of lawful money of the United States. If shipments and/or loaded containers are to be permitted to be aggregated which are rated under more than one tariff published by the carrier or for its account, each tariff so affected must contain a specific rule, providing for the aggregation in connection with the statement of the domestic carrier's divisions and identifying by ICC designation each of the other tariffs. A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent. If a tariff provides less-than-truckload, less-than-containerload, or less-than-trailerload service, such service must be defined. If the tariff provides containerload rates, such rates must be made subject to a specified minimum weight or minimum measure per container, or a specified minimum charge per shipment per container, and a maximum weight per container. Where the freight is to be packed (loaded) or unpacked (unloaded) into or from the containers by the domestic carrier, the tariff must clearly state that the joint rate includes this service or must provide a separate charge to apply when said service is provided.

(3) Rates or charges may be stated to apply in a unit other than a United States unit provided the unit is defined in the tariff where used. The International System of Units (SI) (the metric system) may be used and need not be defined. A rate or charge applying on a unit of measurement other than weight may be published, but if the tariff also includes a rate or charge applying on a unit of weight on the same traffic, the charges on the weight basis must alter-

nate with the charges on the measurement basis other than weight. In every case the tariff shall provide a definite method for determining the measurement of the shipment and the applicable charges. "Cargo, N.O.S." may be provided as a commodity description provided the term is clearly defined in the tariff where used. Tariffs governing the application of the rate tariff need not show a carrier as a participant when none of the provisions therein apply for such carrier's account.

(4) Allowances, cargo administrative charges, or reductions shall not be provided for payment to shippers or other parties for services performed by or facilities furnished by other than the carriers parties to the through transportation unless (i) such carriers by tariff publication hold themselves out to perform such services and furnish such facilities, (ii) such carriers are able to perform such services and furnish such facilities upon reasonable demand, and (iii) the performance of such services and furnishing of such facilities are included in the through joint rate or charge. This subparagraph does not apply where such provisions do not affect the division, rate, or charge accruing to the domestic carrier or the services performed by such carrier.

(5) A domestic carrier desiring to become a participant in a tariff filed in the name of a conference of ocean carriers, which conference does not publish as an agent, must give to its connecting ocean carrier participating in such conference tariffs a concurrence in tariffs issued and filed by the ocean carrier or the conference, or both. A limited concurrence may provide for only those limitations authorized in § 1307.47(c) of this chapter. The concurrence forms prescribed by § 1307.47(c) shall be modified to show that the authority extends to amendments to the tariff(s) and extends to tariffs filed in the name of the conference, and to show the types of tariffs (such as tariffs containing joint motor-ocean rates, et cetera) in which the domestic carrier desires to participate. Powers of attorney must not be executed unless the conference publishes as an agent.

(6) The following changes may be published to become effective upon a specified date not prior to the date filed with the Commission in Washington, D.C., provided the division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge does not change.

1. A change in a published rate, charge, rule, regulation, or other provision which results in reduction or in no change in charges. This includes a change in a rate or charge which results in lessening or canceling a proposed (published but not yet effective) increase.

2. The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or in no change in charges. The tariff must contain a cargo, N.O.S. rate or simi-

lar general cargo rate, which rate would otherwise be applicable to the specific commodity. The specific commodity rate must be equal to or lower than the cargo, N.O.S. or general cargo rate.

Except as otherwise provided in this subparagraph, no new or initial rate, charge, rule, regulation, or other provision and no new point of origin or destination may be published upon less than 30 days' notice. In no case may the establishment of or a change in a division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge become effective upon less than 30 days' notice.

(7) If a tariff includes charges for terminal services, canal tolls, or additional charges not under the control of the carrier or conference, which carrier merely acts as a collection agent for the charges, and the agency making such charges to the carrier increases the charges without notice or without adequate notice to the carrier or conference, such charges may be increased in the tariff by specific publication effective upon a specified date not prior to the date filed with the Commission, in Washington, D.C., whether included in the joint rate or separately stated. If the change occurs in the division, rate, or charge accruing to the domestic carrier, the amendment must contain a statement explaining the change.

(8) Every change made under authority of § 1307.49(b) (6) or (7) must be shown in an amendment (a supplement if the tariff is in bound form or a loose-leaf page if the tariff is in loose-leaf form) to the tariff. The rates, charges, rules, regulations, or other provisions authorized to be changed thereunder may be changed without their having been effective for 30 days prior to the effective date of the change.

(9) The regulations in § 1307.34 of this chapter—Suspension of Tariff Schedules—shall govern only when the operation of the division, rate, or charge accruing to the domestic carrier or any provision governing the division, rate, or charge or the service performed by such carrier is suspended by an order of this Commission.

(c) *Port combination basis.* Domestic and ocean carriers may enter into joint rate arrangements, as authorized by paragraph (b) of this section, and domestic carriers may at the same time maintain in effect rates applicable only from and to the ports, usable in combination with ocean carriers' independently established rates. Publication of such rates by the domestic carrier shall be subject to the following:

(1) The domestic carriers shall file their rates to the ports and from the ports, and such rates must be the same for all, regardless of which ocean carrier may be designated by the shipper except as otherwise provided by section 28 of the Merchant Marine Act (41 Stat. 988, 46 U.S.C. 884).

(2) When the domestic carriers publish rates which are indicated to apply only on export or import traffic, the tar-

iffs containing such rates shall specify by inclusion or exclusion the countries to or from which traffic subject to such rates shall move, regardless of whether such countries are, or are not, adjacent to the United States. Tariffs shall also specify whether or not property destined to or coming from the Republic of Cuba, the Commonwealth of Puerto Rico, Guam, Hawaii, or the Canal Zone is subject to such rates. In the absence of a statement in tariffs limiting the application of export or import rates, such rates will apply on traffic destined to or coming from them.

(3) As a matter of convenience to the public, the domestic carriers may also publish as information in their tariffs the ocean carriers' rates or charges that will apply to or from a foreign country in connection with the domestic carriers' rates. When this is done, the ocean carriers' rates or charges are in no manner subject to the jurisdiction of this Commission, but the rates of the domestic carriers applying to or from the ports are subject to all provisions of the Interstate Commerce Act and to this Commission's regulations.

(d) *Through export and import billing.* Export and import shipments may be forwarded under through billing. Through bills of lading must clearly separate the liability of the carriers included therein, where different, and must show (1) the tariff rates or charges of the domestic carriers to or from the port or (2) the joint rates or charges when such rates or charges are established and are named in tariffs on file with this Commission as provided in paragraph (b) of this section. The name of the domestic carrier shall appear in a prominent place on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide for the use of a specified kind of bill of lading shall reproduce all of the terms and conditions thereof.

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

§ 1308.0 General provisions; definitions.

(b) *Conformation to regulations, et cetera.* All tariffs applicable on traffic subject to the regulations in this subpart must conform to all of their provisions, except as otherwise authorized by the Commission. They shall state and arrange the rates, charges, rules, and regulations clearly and explicitly in such manner that there will be no doubt of their proper application. Carriers or their agents may not publish rates or provisions which duplicate or conflict with rates or provisions published by or for account of such carriers.

(c) *Nonapplication.* Tariffs governed by the regulations in this subpart must not contain:

- Joint water-rail rates;
- Joint water-motor rates;
- Joint water-rail-motor rates;
- Passenger fares;
- Contract carrier rates or charges.

Furthermore, tariffs published under this subpart must not contain joint rates and through routes over the lines of common carriers by water subject to the Interstate Commerce Act, on the one hand, and vessel-operating common carriers by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, for the transportation of property between any place in the United States and any place in a foreign country. For applicable regulations, see §§ 1300.67 and 1307.49.

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE, AND RECREATION

De Soto National Wildlife Refuge, Iowa and Nebraska

The following special regulations are issued and are effective on March 4, 1976.

§ 28.28 Special regulations, public access, use, and recreation, for individual wildlife refuge areas.

IOWA-NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Public recreational activities on De Soto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1976, inclusive, subject to the following special conditions:

(1) Authorized Activities: Public recreational activities are limited to fishing, picnicking, swimming, boating, water skiing, sightseeing, mushroom picking, and nature observation.

(2) Open Season: The open season for general public recreation use is from April 15, 1976, through September 30, 1976. During this period, the area is open daily from 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. Between the dates of September 16 and September 30, 1976, all water oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 29 and September 6, 1976, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public during the month of May, hours of use are the same as for the general use area.

(3) Open Area. The area open for general public use comprises approximately 2,000 acres and the special mushroom picking areas comprise approximately 1,100 acres. These areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, Denver, Colorado 80215. Maps of the open areas are also posted or available for handout at entrance points.

(4) Access. Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) Other provisions. (a) The use of air mattresses, innertubes, beach balls and all other flotation devices, other than life preservers, is prohibited on refuge waters.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) Access to refuge waters with boats that have toilets that flush directly into the water is prohibited, unless such toilets are sealed from use.

(f) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(g) The possession of open alcoholic beverages is prohibited on any boat propelled by mechanical power while the craft is in operation.

(h) The lake being long and narrow requires that all boaters keep to the right and maintain a highway type traffic pattern. Turns shall always be made to the operator's left except when beaching or docking a boat.

(i) A portion of the refuge lake is posted as a "No Ski Zone". No water skiing is allowed in this area.

(j) All boats are prohibited from loading or unloading passengers from the swimming area.

(k) All boat and bank fishermen will be permitted to use the entire lake.

(l) The use and/or possession on the refuge of all controlled substances, including but not limited to cocaine, marijuana, hashish, depressants, stimulants, or hallucinogenic drugs is prohibited except when such use or possession is for the persons own use as authorized by law. All state laws on controlled substances are adopted and made a part hereof.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through September 30, 1976.

JAMES E. FRATES,
Refuge Manager.

FEBRUARY 18, 1976.

[FR Doc.76-6172 Filed 3-3-76;8:45 am]

PART 33—SPORT FISHING

National Wildlife Refuges, Missouri

The following special regulation is issued and is effective on March 4, 1976.

§ 33.5 Special regulations: Sport fishing: for individual wildlife refuge areas.

MISSOURI

SQUAW CREEK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Squaw Creek National Wildlife Refuge,

Missouri. Maps are available at refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Sport Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Open Season will be April 1, 1976 through December 31, 1976 during daylight hours only.

(a) Spearing and gigging of non-game fish is permitted April 1, 1976 through June 30, 1976.

(b) Bullfrogs may be taken from July 1 through November 30, 1976.

(c) Snapping turtles may be taken by rod, reel and pole, or hand caught.

2. Refuge waters will be open to the use of rowboats, canoes or sailboats. No sailboats permitted after September 1, 1976.

3. The use of motors on boats will be restricted to trolling or electric type motors.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1976.

GERALD M. NUGENT,
Refuge Manager, Squaw Creek
National Wildlife Refuge,
Mound City, Missouri.

FEBRUARY 6, 1976.

[FR Doc.76-6173 Filed 3-3-76;8:45 am]

Title 7—Agriculture

Subtitle A—Office of the Secretary

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

ADMINISTRATOR, SOIL CONSERVATION SERVICE

Delegation of Authority to Approve Designated Resource Conservation and Development Areas for Operations.

Part 2—Subpart G, Title 7, Code of Federal Regulations is amended to delegate authority to the Administrator of the Soil Conservation Service to approve designated Resource Conservation and Development Areas for operations.

7 CFR, Subtitle A, Part 2, is amended by revising § 2.62(b)(3) to read as follows:

(3) Approving additions to authorized Resource Conservation and Development Projects.

Effective date: This document shall become effective on March 1, 1976.

ROBERT W. LONG,
Assistant Secretary of Agriculture,
for Conservation, Research,
and Education.

[FR Doc.76-6272 Filed 3-3-76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 370]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Mar. 5-11, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.670 Navel Orange Regulation 370.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is fair to poor, with reasonable activity on first grade fruit, but fairly slow activity on the balance. Prices f.o.b. averaged \$3.36 a carton on a reported sales volume of 1,069 cartons last week, compared with an average f.o.b. price of \$3.20 per carton and sales of 931 cartons a week earlier. Track and rolling supplies at 394 cars were up 21 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges

which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 2, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period March 5, 1976, through March 11, 1976, are hereby fixed as follows:

- (i) District 1: 984,000 cartons;
 - (ii) District 2: 216,000 cartons;
 - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 3, 1976.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 76-6512 Filed 3-3-76; 11:41 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

[Docket No. F893]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of

special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be 30 days after the date of publication in the FEDERAL REGISTER, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBM's in effect).

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Madison	Gurley, town of	H 010152 01	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104.	Mayor, P.O. Box 146, Gurley, Ala. 35974.	Apr. 16, 1976.
Arizona	Pinal	Florence, town of	H 040084A 01 through H 040084A 04	Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104. Arizona State Land Department, 1624 West Adams, Room 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, P.O. Box 7098, 718 West Glenrosa, Phoenix, Ariz. 85011.	Chairman, City Hall, P.O. Box 73, Florence, Ariz. 85232.	May 3, 1974. Feb. 20, 1976.
Do	Navajo	Show Low, city of	H 040069A 01 through H 040069A 06	do	City Clerk, P.O. Box 468, Show Low, Ariz. 85901.	June 7, 1974. Feb. 20, 1976.
Arkansas	Sebastian	Greenwood, city of	H 050198A 01 through H 050198A 02	Division of Soil and Water Resources, State Department of Commerce, 1200 Westpark Dr., Room 308, Little Rock, Ark. 72204. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Greenwood, Ark. 72336.	June 14, 1974. Feb. 20, 1976.
Do	Clay	McDougal, city of	H 050033A 01	do	Mayor, City Hall, McDougal, Ark. 72441.	Sept. 13, 1974. Feb. 20, 1976.
Do	Jefferson	Whitehall city of	H 050375A 01	do	Mayor, 8408 Dollarway Rd., Whitehall, Ark. 71601.	Apr. 18, 1975. Feb. 20, 1976.
California	Orange	Irvine, city of	H 060222B 01 through H 060222B 15	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 600 South Commonwealth Ave., Los Angeles, Calif. 90005. California Insurance Department, 1407 Market St., San Francisco, Calif. 94103.	City Manager, Irvine Tower Center, 4201 Campus Dr., Irvine, Calif. 92664.	June 21, 1974. Sept. 19, 1975. Feb. 20, 1976.
Do	Los Angeles	Lomita, city of	H 060135A 01	do	City Administrator, City Hall, Lomita, Calif. 90717.	June 28, 1974.
Colorado	Sedgwick	Julesburg, town of	H 080169A 01 through H 080169A 03	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	Mayor, Town Hall, Julesburg, Colo. 80737.	May 24, 1974. Feb. 20, 1976.
Do	El Paso	Ramah, town of	H 080066A 01	do	Mayor, Town Hall, Ramah, Colo. 80832.	Sept. 13, 1974. Feb. 20, 1976.
Connecticut	Litchfield	Bridgewater, town of	H 090184A 01 through H 090184A 08	Department of Environmental Protection, Division of Water and Related Resources, Room 207, State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06115.	First Selectman, Selectmen's Office, Bridgewater, Conn. 06752.	Dec. 6, 1974. Feb. 20, 1976.
Florida	Washington	Caryville, town of	H 120321A 01 through H 120321A 02	Department of Community Affairs, 2571 Executive Center Circle, East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Mayor, P.O. Box 206, Caryville, Fla. 32427.	June 28, 1974. Feb. 20, 1976.
Do	Broward	Lauderdale Lakes, city of	H 120043A 01 through H 120043A 02	do	Mayor, 4300 North West, 36th St., Lauderdale Lakes, Fla. 33319.	May 17, 1974.
Do	do	Margate, city of	H 120047A 01 through H 120047A 03	do	Mayor, 5790 Margate Blvd., Margate, Fla. 33063.	Feb. 15, 1974.
Do	Alachua	Micanopy, town of	H 120344 01	do	Mayor, P.O. Box 137, Micanopy, Fla. 32667.	Apr. 16, 1976.
Do	Manatee	Palmetto, city of	H 120159A 01 through H 120159A 03	do	Mayor, 516 8th Ave., West Palmetto, Fla. 33561.	July 19, 1974. Feb. 20, 1976.
Do	Hillsborough	Plant City, city of	H 120113A 01 through H 120113A 05	do	City Manager (Acting), P.O. Drawer C, Plant City, Fla. 33566.	June 28, 1974. Feb. 20, 1976.
Do	Osceola	St. Cloud, city of	H 120191A 01 through H 120191A 02	do	Mayor, 1300 9th St., St. Cloud, Fla. 32769.	June 28, 1974. Feb. 20, 1976.
Do	Leon	Tallahassee, city of	H 120144A 01 through H 120144A 10	do	Mayor, City Hall, Tallahassee, Fla. 32304.	June 28, 1974. Feb. 20, 1976.
Do	Broward	Tamarac, city of	H 120058A 01 through H 120058A 07	do	City Manager, 5200 Rock Island Rd., Tamarac, Fla. 33319.	June 21, 1974.

RULES AND REGULATIONS

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Holmes	Westville, town of.	H 120118A 01	do.	Mayor, P.O. Box 147, Westville, Fla. 32464.	Sept. 6, 1974.
Do.	Pasco	Zephyrhills, city of.	H 120235A 01	do.	Mayor, 603 8th St., Zephyrhills, Fla. 33599.	Feb. 20, 1976.
Do.	Hardee	Zolfo Springs, town of.	H 120235A 02	do.	Mayor, P.O. Box 162, Zolfo, Fla. 33800.	Feb. 1, 1974.
Do.	Hardee	Zolfo Springs, town of.	H 120106A 01	do.	Mayor, P.O. Box 162, Zolfo, Fla. 33800.	Feb. 20, 1976.
Georgia	Cobb and Douglas	Austell, city of.	H 130054A 01 through H 130054A 03	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334.	Mayor, 2722 Broad St., Austell, Ga. 30001.	Jan. 16, 1974.
Do.	Stephens	Avalon, town of.	H 130390 01	do.	Mayor, Town Hall, Avalon, Ga. 30557.	Feb. 20, 1976.
Do.	Henry	Hampton, city of.	H 130107A 01 through H 130107A 03	do.	Mayor, P.O. Box 347, Hampton, Ga. 30228.	Apr. 5, 1974.
Do.	Harris	Unincorporated areas.	H 130338 01 through H 130338 32	do.	Route 2, Hamilton, Ga. 31811.	Feb. 20, 1976.
Do.	Rockdale	do.	H 130384 01 through H 130384 11	do.	Commissioners, P.O. Box 289, Conyers, Ga. 30207.	Apr. 16, 1976.
Idaho	Kootenai	Fernan Lake, city of.	H 160679A 01	Department of Water Administration, State House Annex 2, Boise, Idaho 83707.	Mayor, City Hall, 211 Bruce Dr., Fernan Lake, Idaho 83814.	Do.
Illinois	Madison	Bethalto, village of.	H 170438A 01 through H 170438A 02	Governor's Task Force on Flood Control, 300 North State St., P.O. Box 475, Room 1010, Chicago, Ill. 60610.	Village President, 213 North Prairie St., Bethalto, Ill. 62010.	Illinois Insurance Department 525 West Jefferson St., Springfield, Ill. 62702.
Do.	Cook	Blue Island, city of.	H 170064A 01 through H 170064A 02	do.	Mayor, 13051 Greenwood Ave., Blue Island, Ill. 60406.	May 3, 1974.
Do.	Vermillion	Catlin, village of.	H 170061A 01	do.	Mayor, Village Hall, Catlin, Ill. 61817.	Feb. 20, 1976.
Do.	Lake	Deerfield, village of.	H 170361A 01 through H 170361A 03	do.	Village President, 850 Waukegan Rd., Deerfield, Ill. 60015.	Mar. 22, 1974.
Do.	Hancock	Unincorporated areas.	H 170267A 01 through H 170267A 58	do.	Chairman County Board, Hancock County Courthouse, Carthage, Ill. 62321.	June 28, 1974.
Do.	Cook and Du Page	Hinsdale, village of.	H 170105A 01 through H 170105A 02	do.	Village President, 19 East Chicago Ave., Hinsdale, Ill. 60521.	May 10, 1974.
Do.	Crawford	Hutsonville, village of.	H 170178A 01	do.	Village President, Village Hall, Hutsonville, Ill. 62433.	Feb. 20, 1976.
Do.	Du Page	Itasca, village of.	H 170210A 01 through H 170210A 02	do.	Village President, 100 North Walnut Ave., Itasca, Ill. 60143.	Jan. 24, 1975.
Do.	Cook	Justice, village of.	H 170112A 01	do.	Village President, 7890 Archer Rd., Justice, Ill. 60458.	Feb. 20, 1976.
Do.	Lake	Kildeer, village of.	H 170371A 01 through H 170371A 02	do.	Village President, Route 2, Box 639, Buffalo Run, Ill. 60047.	Dec. 17, 1973.
Do.	Marshall	Lacon, city of.	H 170457A 01 through H 170457A 02	do.	Mayor, 405 5th St., Lacon, Ill. 61340.	Feb. 20, 1976.
Do.	Lake	Lake Forest, city of.	H 170374A 01 through H 170374A 06	do.	Mayor, 220 East Deerpath, Lake Forest, Ill. 60045.	Nov. 16, 1973.
Do.	Ogle	Leaf River, village of.	H 170328A 01	do.	Village President, Village Hall, Leaf River, Ill. 61047.	Feb. 20, 1976.
Do.	Lake	Lindenhurst, village of.	H 170379A 01	do.	Mayor, 2058 East Grand Ave., Lindenhurst, Ill. 60046.	Nov. 23, 1973.
Do.	Fulton	London Mills, village of.	H 170763A 01	do.	Village President, P.O. Box 346, London Mills, Ill. 61544.	Feb. 20, 1976.
Do.	Cook	Lyons, village of.	H 170120A 01	do.	Mayor, 7801 Ogden Ave., Lyons, Ill. 60534.	Apr. 5, 1974.
Do.	De Kalb	Malta, village of.	H 170187A 01	do.	Village President, Village Hall, Malta, Ill. 60150.	Feb. 20, 1976.
Do.	Will	Manhattan, village of.	H 170704A 01	do.	Mayor, 255 State St., Manhattan, Ill. 60442.	June 7, 1974.
Do.	Kane	Valley View, village of.	H 170334A 01	do.	Village President, Rural Delivery No. 2, Box 609, St. Charles, Ill. 60174.	Mar. 15, 1974.
Iowa	Sioux	Alton, city of.	H 190538 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319.	Mayor, City Hall, Alton, Iowa 51003.	Apr. 5, 1974.
Do.	Cherokee	Aurelia, city of.	H 190549 01	Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, City Hall Aurelia, Iowa 51005.	Feb. 20, 1976.
Do.	Linn	Coggon, city of.	H 190189A 01	do.	Mayor, Town Hall, Coggon, Iowa 52218.	Apr. 16, 1974.
Do.	Grundy	Conrad, city of.	H 190401 01	do.	Mayor, City Hall, Conrad, Iowa 50621.	May 17, 1974.
Do.	Butler	Greene, city of.	H 190337A 01	do.	Mayor, City Hall, Greene, Iowa 50636.	Feb. 20, 1976.
Do.	Humboldt	Humboldt, city of.	H 190155A 01	do.	Mayor, City Hall, Humboldt, Iowa 50548.	Apr. 5, 1974.
Do.	Winneshago	Leland, city of.	H 190529 01 through H 190529 02	do.	Mayor, City Hall, Leland, Iowa 50453.	Feb. 20, 1976.
Do.	Jackson	Maquoketa, city of.	H 190160A 01 through H 190160A 04	do.	Mayor, City Hall, Maquoketa, Iowa 52060.	June 28, 1974.
Do.	Warrens	Martensdale, city of.	H 190524 01	do.	Mayor, City Hall, Martensdale, Iowa 50160.	Feb. 20, 1976.
Do.	Jasper	Reasnor, city of.	H 190167A 01	do.	Mayor, City Hall, Reasnor, Iowa 50232.	Apr. 16, 1976.
Do.	Clayton	Strawberry Point, city of.	H 190662 01	do.	Mayor, City Hall, Strawberry Point, Iowa 52076.	Nov. 1, 1974.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Fremont	Thurman, city of.	H 190394 01	do.	Clerk, City Hall, Thurman, Iowa 51654.	Do.
Do.	Allamakee	Waterville, city of.	H 190317 01 through H 190317 02	do.	Mayor, P.O. Box 57, Waterville, Iowa 52170.	Do.
Kansas	Lyons	Americus, city of.	H 200202 01 through H 200202 02	Division of Water Resources, Kansas Department of Agriculture, 1720 South Topeka Ave., Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor Statehouse, Topeka, Kans.	Mayor, City Hall, Americus, Kans. 66835.	Do.
Do.	Nemaha	Sabetha, city of.	H 200523 01	do.	Superintendent, P.O. Box 187, Sabetha, Kans. 66534.	Do.
Do.	Rice	Sterling, city of.	H 200297A 01	do.	Mayor, City Hall, 114 North Broadway, Sterling, Kans. 67579.	Mar. 8, 1974.
Kentucky	Carlisle	Arlington, town of.	H 210043A 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office, Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, P.O. Box 207, Arlington, Ky. 42021.	May 17, 1974.
Do.	Harrison	Berry, town of.	H 210106A 01	do.	Chairman of Board of Trustees, Town Hall, Berry, Ky. 41003.	Aug. 16, 1974.
Do.	Nelson	Bloomfield, city of.	H 210179A 01 through H 210179A 03	do.	Mayor, City Hall, Bloomfield, Ky. 40008.	Feb. 20, 1976. May 10, 1974.
Do.	Hart	Bonnieville, town of.	H 210108A 01 through H 210108A 02	do.	Mayor, P.O. Box 52, Bonnieville, Ky. 42713.	June 28, 1974.
Do.	Owsley	Booneville, city of.	H 210187A 01	do.	Mayor, City Hall, Booneville, Ky. 41314.	Feb. 1, 1974.
Do.	Marion	Bradfordville, city of.	H 210161A 01	do.	Chairman of the Board, General Delivery, Bradfordville, Ky. 40009.	Feb. 20, 1976. May 10, 1974.
Do.	Boyd	Catlettsburg, town of.	H 210018A 01 through H 210018A 02	do.	Mayor, 26th St., Catlettsburg, Ky. 41129.	Feb. 20, 1974. May 8, 1974.
Do.	Powell	Clay City, city of.	H 210195A 01	do.	Mayor, City Hall, Clay City, Ky. 40312.	Feb. 1, 1974.
Do.	Whitley	Corbin, city of.	H 210227A 01 through H 210227A 02	do.	Mayor, 302 North Main Ave., Corbin, Ky. 40701.	Feb. 20, 1976. June 14, 1974.
Do.	Harrison	Cynthiana, city of.	H 210107A 01 through H 210107A 02	do.	Mayor, East Pleasant St., Cynthiana, Ky. 41031.	June 7, 1974. Feb. 20, 1976.
Do.	Boyle	Danville, city of.	H 210019A 01 through H 210019A 02	do.	Mayor, P.O. Box 670, Danville, Ky. 40422.	May 31, 1974. Feb. 20, 1976.
Do.	Hopkins	Dawson Springs, city of.	H 210113A 01 through H 210113A 03	do.	Mayor, P.O. Box 216, Dawson Springs, Ky. 42408.	Feb. 1, 1974. Feb. 20, 1976.
Do.	Boone	Florence, city of.	H 210238A 01 through H 210238A 03	do.	Mayor, 7431 U.S. 42, Florence, Ky. 41042.	Feb. 1, 1974. Feb. 20, 1976.
Do.	Logan	Lewisburg, city of.	H 210149A 01 through H 210149A 02	do.	Mayor, P.O. Box 239, Lewisburg, Ky. 42256.	May 17, 1974. Feb. 20, 1976.
Do.	McLean	Livemore, city of.	H 210155A 01	do.	Mayor, City Hall, Livemore, Ky. 42352.	Feb. 1, 1974.
Do.	Rockcastle	Livingston, city of.	H 210202A 01	do.	Chairperson of Board, City Hall, Livingston, Ky. 40445.	Aug. 2, 1974. Feb. 20, 1976.
Do.	Clay	Manchester, city of.	H 210058A 01	do.	Mayor, 108 Richmond Rd., Manchester, Ky. 40962.	Feb. 1, 1974.
Do.	Jackson	McKee, city of.	H 210119A 01 through H 210119A 03	do.	Mayor, City Hall, McKee, Ky. 40447.	Oct. 25, 1974. Feb. 20, 1976.
Do.	Bourbon	Millersburg, city of.	H 210014A 01	do.	Mayor, Town Hall, Millersburg, Ky. 40348.	May 10, 1974. Feb. 20, 1976.
Do.	Nelson	New Haven, city of.	H 210180A 01	do.	Mayor, Route 1, New Haven, Ky. 40051.	Jan. 23, 1974.
Do.	Hopkins	Nortonville, city of.	H 210305A 01	do.	Mayor, P.O. Box 347, Nortonville, Ky. 42442.	May 17, 1974. Feb. 20, 1976.
Do.	Carter	Olive Hill, city of.	H 210052A 01 through H 210052A 03	do.	Mayor, P.O. Box 460, Olive Hill, Ky. 41164.	Feb. 1, 1974. Feb. 20, 1976.
Do.	Davless	Owensboro, city of.	H 210063A 01 through H 210063A 06	do.	Mayor, City Hall, Owensboro, Ky. 42301.	May 24, 1974. Feb. 20, 1976.
Do.	Bourbon	Paris, city of.	H 210015A 01	do.	Mayor, 800 Pleasant St., Paris, Ky. 40361.	Jan. 16, 1974. Feb. 20, 1976.
Do.	Carroll	Prestonville, town of.	H 210047A 01	do.	Carroll County Judge, Town Hall, Carrollton, Ky. 41008.	Aug. 16, 1974. Feb. 20, 1976.
Louisiana	West Baton Rouge Parish,	Addis, village of.	H 220240A 01	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capital Station, Baton Rouge, La. 70804.	Mayor, City Hall, Addis, La. 70710.	Dec. 7, 1973. Feb. 20, 1976.
Do.	St. Mary Parish	Berwick, town of.	H 220194A 01 through H 220194A 02	do.	Mayor, Town Hall, Berwick, La. 70342.	Sept. 6, 1974. Feb. 20, 1976.
Do.	Iberville Parish	Marionville, town of.	H 220085A 01	do.	Mayor, Town Hall, Marionville, La. 70757.	Apr. 12, 1974. Feb. 20, 1976.
Maryland	Cecil	Chesapeake City, town of.	H 240099A 01	Department of Natural Resources, Water Resources Division, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Mayor, Chesapeake City, Md. 21915.	Sept. 13, 1974. Feb. 20, 1976.
Do.	Frederick	Frederick, city of.	H 240030A 01 through H 240030A 08	do.	Mayor, 124 North Market St., Frederick, Md. 21704.	Oct. 18, 1974. Feb. 20, 1976.
Do.	Allegany	Midland, town of.	H 240006A 01	do.	Mayor, Paradise St., Midland, Md. 21452.	Aug. 9, 1974. Feb. 20, 1976.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.....	Cecil.....	Port Deposit, town of.	H 240025A 01	do.....	Mayor, 41 South Main St., Port Deposit, Md. 21904.	Aug. 9, 1974.
Do.....	Allegany.....	Westernport, town of.	H 240007A 01	do.....	Mayor, P.O. 286, Westernport, Md. 21562.	Feb. 1, 1974.
Michigan.....	Lapeer.....	Imlay City, city of.	H 260337A 01 through H 260337A 02	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	Mayor, 150 North Main St., Imlay City, Mich. 48444.	Feb. 20, 1976. Sept. 12, 1975. Feb. 20, 1976.
Minnesota.....	Freeborn.....	Albert Lea, city of.	H 270135A 01 through H 270135A 04	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Mayor, 221 East Clark St., Albert Lea, Minn. 56007.	June 7, 1974. Feb. 20, 1976.
Do.....	Waseca.....	New Richland, city of.	H 270497A 01	do.....	Mayor, City Hall, New Richland, Minn. 56072.	Apr. 12, 1974.
Do.....	Fillmore.....	Peterson, city of.	H 270128A 01	do.....	Mayor, City Hall, Peterson, Minn. 55962.	Aug. 30, 1974.
Mississippi.....	Copiah.....	Crystal Springs, city of.	H 280044A 01	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Mayor, P.O. Box 386, Crystal Springs, Miss. 39059.	June 7, 1974. Feb. 20, 1976.
Do.....	Hinds.....	Terry, town of.	H 280073A 01	do.....	Mayor, P.O. Box 327, Terry, Miss. 39170.	Feb. 1, 1974.
Do.....	Carroll.....	Valden, town of.	H 280029A 01 through H 280029A 02	do.....	Mayor, P.O. Box 76, Valdén, Miss. 39176.	Feb. 20, 1976. June 7, 1974. Feb. 20, 1976.
Do.....	Holmes.....	West, town of.	H 280079A 01	do.....	Mayor, P.O. Box 35, West, Miss. 39192.	Sept. 6, 1975.
Missouri.....	Jasper.....	Carthage, city of.	H 290181A 01 through H 290181A 03	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City Hall, Carthage, Mo. 64836.	Feb. 20, 1976. Mar. 15, 1974. Feb. 20, 1976.
Do.....	Pemiscott.....	Caruthersville, city of.	H 290275A 01 through H 290275A 03	do.....	Mayor, City Hall, 200 West 3d St., Caruthersville, Mo. 63830.	Mar. 29, 1974. Feb. 20, 1976.
Do.....	Clay.....	Claycomo, village of.	H 290089A 01 through H 290089A 02	do.....	Clerk, 11-115 East 69 Highway, Kansas City, Mo. 64119.	Jan. 23, 1974. Feb. 20, 1976.
Do.....	Ozard.....	Gainesville, city of.	H 290273A 01 through H 290273A 02	do.....	Mayor, City Hall, Gainesville, Mo. 65665.	Dec. 28, 1973. Feb. 20, 1976.
Do.....	Cass.....	Harrisonville, city of.	H 290068A 01 through H 290068A 03	do.....	Mayor, 300 East Pearl, Box 367, City Hall, Harrisonville, Mo. 64701.	Mar. 15, 1974. Feb. 20, 1976.
Nebraska.....	Furnas.....	Cambridge, city of.	H 310087A 01	Nebraska Natural Resources Commission, Terminal Bldg., 7th Floor, Lincoln, Nebr. 68508. Nebraska Insurance Department, 1335 L St., Lincoln, Nebr. 68509.	Mayor, City Hall, Cambridge, Nebr. 69022.	May 3, 1974. Feb. 20, 1976.
Do.....	Saunders.....	Weston, village of.	H 310205A 01	do.....	Mayor, Village Hall, Weston, Nebr. 68070.	Oct. 18, 1974. Feb. 20, 1976.
New Jersey.....	Morris.....	Harding, township of.	H 340344A 01 through H 340344A 03	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, Box 23, Madison, N.J. 07940.	Apr. 12, 1974. Feb. 20, 1976.
Do.....	Mercer.....	Hightstown, borough of.	H 340247A 01 through H 340247A 02	do.....	Mayor, 148 North Main, Hightstown, N.J. 08520.	Jan. 9, 1974.
New Mexico.....	Socorro.....	Magdalena, village of.	H 350076A 01 through H 350076A 03	State Engineer's Office, Bataan Memorial Bldg., Santa Fe, N. Mex. 87501. New Mexico Department of Insurance, P.O. Box 1269, Santa Fe, N. Mex. 87501.	Mayor, P.O. Box 145, Village Hall, Magdalena, N. Mex. 87825.	Aug. 2, 1974. Feb. 20, 1976.
New York.....	Suffolk.....	Huntington, town of.	H 360796A 01 through H 360796A 22	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 2 World Trade Center, New York, N.Y. 10047.	Town Supervisor, 209 Main St., Huntington, N.Y. 11743.	Aug. 2, 1974. Feb. 20, 1976.
Do.....	Cayuga.....	Ira, town of.	H 360112A 01 through H 360112A 04	do.....	Town Supervisor, Rural Delivery 3, Cato, N.Y. 13033.	July 26, 1974. Feb. 20, 1976.
Do.....	Broom.....	Lisle, town of.	H 360049A 01 through H 360049A 02	do.....	Town Supervisor, Rural Delivery 1, Box 157, Richford, N.Y. 13835.	Feb. 15, 1974. Feb. 20, 1976.
Do.....	Jefferson.....	Watertown, town of.	H 360355A 01 through H 360355A 05	do.....	Town Supervisor, 6873 Brookside, Watertown, N.Y. 13601.	Apr. 5, 1974. Feb. 20, 1976.
North Carolina.....	Haywood.....	Canton, town of.	H 370121A 01 through H 370121A 04	Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, P.O. Box 987, Canton, N.C. 28716.	Oct. 12, 1973. Feb. 20, 1976.
Do.....	Polk.....	Tryon, town of.	H 370271 01 through H 370271 02	do.....	Mayor, Drawer K, Tryon, N.C. 28782.	Apr. 16, 1976.

RULES AND REGULATIONS

9361

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
North Dakota	Ward	Burlington, city of	H 380141 01	State Water Commission, State Office Bldg., 900 East Blvd., Bismarck, N. Dak. 58501.	Mayor, City Hall, Burlington, N. Dak. 58722.	Do.
Oklahoma	Craig	Bluejacket, town of	H 400262 01	North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Mayor, Town Hall, Bluejacket, Okla. 74333.	Do.
Do.	Bryan	Caddo, town of	H 400353 01	Oklahoma Water Resources Board, 5th floor, Jim Thorpe Bldg., Oklahoma City, Okla. 73105.	Mayor, P.O. Box 363, Caddo, Okla. 74729.	Do.
Do.	Pittsburg	Canadian, city of	H 400272 01	Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Clerk, P.O. Box 43, Canadian, Okla. 74425.	Do.
Do.	Blaine	Greenfield, town of	H 400013A 01	do.	President, Town Hall, Greenfield, Okla. 73043.	Aug. 30, 1974.
Do.	Pontotoc	Stonewall, town of	H 400177A 01	do.	Mayor, Main St., P.O. Box 278, Town Hall, Stonewall, Okla. 74871.	June 28, 1974.
Do.	Kay	Tonkawa, city of	H 400079A 01 through H 400079A 02	do.	Mayor, City Hall, 117 South 7th, Tonkawa, Okla. 74653.	Feb. 20, 1976.
Oregon	Jackson	Jacksonville, city of	H 410095A 01 through H 410095A 04	Executive Department, State of Oregon, Salem, Oreg. 97310.	Mayor, City Hall, Jacksonville, Oreg. 97530.	June 21, 1974.
Do.	Klamath	Klamath Falls, city of	H 410112A 01 through H 410112A 12	Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 95710.	Planning Director, City Hall, Klamath Falls, Oreg. 97601.	Feb. 20, 1976.
Pennsylvania	Beaver	Beaver Falls, city of	H 420105A 01 through H 420105A 02	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120.	Mayor, Room 101, City Bldg., Beaver Falls, Pa. 15010.	Feb. 22, 1974.
Do.	Tioga	Blossburg, borough of	H 420817A 01 through H 420817A 04	Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, 206 Main St., Blossburg, Pa. 16012.	Nov. 30, 1973.
Do.	Butler	Harrisville, borough of	H 422351A 01	do.	President, Main St., Harrisville, Pa. 16038.	Feb. 20, 1976.
Do.	Montgomery	Pottstown, borough of	H 420705A 01 through H 420705A 02	do.	Borough Manager, Borough Hall, 211 King St., Pottstown, Pa. 19464.	May 3, 1974.
Do.	Crawford	Spartansburg, borough of	H 421561A 01	do.	Mayor, Spartansburg, Pa. 16434.	Feb. 20, 1976.
Do.	Centre	State College, borough of	H 420270A 01 through H 420270A 03	do.	Borough Manager, 118 South Fraser St., State College, Pa. 16801.	June 14, 1974.
Tennessee	Bradley	Cleveland, city of	H 470015 01 through H 470015 12	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219.	Mayor, 190 South Church St., Cleveland, Tenn. 37311.	Apr. 16, 1976.
Texas	Wichita	Burkburnett, city of	H 480658B 01 through H 480658B 07	Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	City Engineer, City Hall, Burkburnett, Tex. 76354.	June 7, 1974.
Do.	Collin	Celina, city of	H 480133A 01	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711.	Mayor, City Hall, 302 Walnut, P.O. Box 75, Celina, Tex. 75009.	Apr. 12, 1974.
Do.	Jackson	Ganado, city of	H 480381A 01	Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Mayor, City Hall, 204 West Putman St., Ganado, Tex. 77962.	Feb. 20, 1976.
Do.	Robertson	Hearne, city of	H 480542A 01	do.	Mayor, City Hall, 310 Cedar St., Hearne, Tex. 77859.	Mar. 29, 1974.
Do.	McLennan	McGregor, city of	H 480459A 01 through H 480459A 04	do.	Mayor, City Hall, 409 West 4th St., McGregor, Tex. 76657.	Feb. 20, 1976.
Do.	Jim Wells	Premont, city of	H 480396A 01	do.	Mayor, City Hall, Southwest 1st and Bernice, P.O. Drawer 340, Premont, Tex. 78375.	June 28, 1974.
Vermont	Windham	Vernon, town of	H 500137A 01 through H 500137A 07	Management and Engineering Division, Department of Water Resources, Vermont Agency of Environmental Conservation, State Office Bldg., Montpelier, Vt. 05602.	Chairman, Board of Selectmen, Rural Free Delivery 1, P.O. Box 15, Vernon, Vt. 05354.	June 28, 1974.
Do.	Orange	Washington, town of	H 500077A 01 through H 500077A 14	Vermont Insurance Department, State Office Bldg., Montpelier, Vt. 05602.	Town Selectmen, Town Hall, Washington, Vt. 05675.	Feb. 20, 1976.
Washington	Klickitat	Bingen, town of	H 530100A 01	Department of Ecology, Olympia, Wash. 98501.	Mayor, Town Hall, Bingen, Wash. 98605.	June 7, 1974.
Do.	Skagit	Concrete, town of	H 530154A 01	Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Mayor, Town Hall, Concrete, Wash. 98237.	Feb. 20, 1976.
Do.	Okanogan	Okanogan, city of	H 530119A 01 through H 530119A 02	do.	City Clerk-Treasurer, City Hall, Okanogan, Wash. 98840.	Dec. 7, 1973.
Do.	Kitsap	Poulsbo, city of	H 530241A 01 through H 530241A 02	do.	Mayor, P.O. Box 98, Poulsbo, Wash. 98370.	Feb. 20, 1976.
Do.	Yakima	Toppenish, city of	H 530228A 01	do.	Mayor, City Hall, Toppenish, Wash. 98948.	June 7, 1974.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Wisconsin.....	Calumet.....	Hilbert, village of.	H 550038A 01.....	Department of Natural Resources, P.O. Box 459, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	Mayor, Village Hall, Hilbert, Wis. 54129.	Apr. 12, 1974. Feb. 20, 1976.
Do.....	Kenosha.....	Unincorporated areas.	H 550523 01 through H 550523 19	do.....	County Board Chairman, 521 11th St., Kenosha, Wis. 53140.	Apr. 16, 1976.
Wyoming.....	Park.....	Cody, city of.....	H 560038A 01 through H 560038A 02	Wyoming Disaster and Civil Defense Agency, P.O. Box 1709, Cheyenne, Wyo. 82001. Department of Insurance, State of Wyoming, State Office Bldg., Cheyenne, Wyo. 82001.	Mayor, City Hall, 1338 Rumsey Ave., Cody, Wyo. 82414.	June 28, 1974. Feb. 20, 1976.

(24 CFR § 1915.3)

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 19, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc.76-5882 Filed 3-3-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3500 and 3520]

COAL LEASES

Diligent Development and Continuous Operations; Extension of Comment Period

Notice was published in the FEDERAL REGISTER on Wednesday, December 31, 1975 (40 FR 60070, 60071), inviting interested parties to submit written comments to the Director, Bureau of Land Management, on proposed regulations which would define the terms "logical mining unit," "logical mining unit reserves," "diligent development," and "continuous operations." The proposed regulations would also modify the existing regulations relating to the duration and adjustment of terms and conditions of coal leases. The period for comment on these regulations was extended by notice published in the FEDERAL REGISTER on February 2, 1976 (41 FR 4831). The period for comment is hereby further extended for an additional period. Comments on these proposed regulations will be accepted until March 15, 1976.

FRED G. KAREM,
Deputy Under Secretary
of the Interior.

FEBRUARY 27, 1976.

[FR Doc.76-6186 Filed 3-3-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 221]

TIMBER

Transfer of Unused Effective Purchaser Road Construction Credit; Extension of Comment Period

In FR Doc. 76-4858 appearing at page 7773 in the Federal Register of February 20, 1976, the date for submission of written data, views or objections pertaining to the proposed amendment is changed from March 12, 1976, to March 25, 1976.

Dated: March 1, 1976.

ROBERT W. LONG,
Assistant Secretary.

[FR Doc.76-6273 Filed 3-3-76;8:45 am]

Soil Conservation Service

[7 CFR Part 650]

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Guidelines

On June 3, 1974, the Soil Conservation Service published the subject guidelines (39 FR 1964). These guidelines were

amended on September 3, 1974, (39 FR 31879) and on March 10, 1975, (40 FR 10951).

The Soil Conservation Service is considering revising certain sections of 7 CFR-650 (39 FR 1964) of the Soil Conservation Service Regulations. Interested persons are invited to participate in the proposed regulation change by submitting written data, views, or arguments as they made desire. Comments should be referenced to specific subsections of the regulation and submitted to:

Administrator, Soil Conservation Service, US Department of Agriculture, Washington, DC 20250.

All written communications received on or before April 5, 1976, will be considered before any action is taken on the proposed rule change. The proposal contained in this notice may be changed due to comments received. All comments submitted before the closing date will be made available by the Administrator for examination by interested persons.

The proposed revised sections of the regulations are published herewith.

(Catalog of Federal Domestic Assistance Prog. #10904 National Archives Reference Services.)

Dated: January 23, 1976.

SOIL CONSERVATION SERVICE.

EDWARD E. THOMAS,
Acting Administrator.

PART 650—COMPLIANCE WITH NEPA

1. The table of sections for Part 650 is revised as follows:

Sec.	Purpose.
650.1	Applicability.
650.2	Policy.
650.3	References.
650.4	Environmental assessment in the planning process.
650.5	Obtaining information required for environmental impact statements.
650.6	Public involvement and coordination.
650.7	SCS actions covered and excluded.
650.8	Numbering, distributing for comment, and time limits.
650.9	Environmental impact statements format and content.
650.10	Reviewing and commenting on environmental impact statements prepared by other federal and non-federal agencies.
650.11	

2. Section 650.2 is revised as follows:

§ 650.2 Applicability.

This part applies to those activities of the SCS identified in § 650.8 as major federal actions significantly affecting the quality of the human environment which were authorized for installation after January 1, 1970, in accordance with § 622.50 of this chapter (40 FR 12480). Actions authorized prior to January 1, 1970, are covered in § 650.8(b)(2). This

part also applies to SCS responsibilities for reviewing and commenting on EIS's prepared by other federal and nonfederal agencies. The goals and policies of NEPA supplement the goals and policies in existing authorizations for SCS programs.

3. Section 650.4 is amended by adding the following at the end of the section:

§ 650.4 References.

Archeological and Historical Preservation Act of 1975 (Pub. L. 93-291), and the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500).

4. Section 650.7 is amended as follows:

- Revise paragraph (d).
- Revise paragraph (e).

§ 650.7 Public Involvement and Coordination.

(d) *Public Notices.* Public notice of each public meeting and public hearing discussed in paragraphs (b) and (c) of this section, except as hereinafter provided, is to be advertised in local newspapers on three different days beginning at least 15 days prior to the date of the meeting or hearing and mailed to the interested individuals, groups, organizations, and agencies referred to in paragraph (a) of this section at least 15 days prior to the meeting or hearing. The notice shall contain specifics of the project or program proposal, the date, time, and location of the meeting or hearing and where information as to the environmental considerations and impacts of the proposed project may be obtained prior to as well as after the meeting. Where arrangements for such notification are the responsibility of local sponsors, it is the responsibility of the state conservationist to make certain that these public notice requirements have been properly fulfilled. Where official action by the local sponsors on the matters considered at a meeting or hearing is governed by state statute, the public notice and mailing requirements of this section may be modified as necessary to comply with the state statute.

(e) *Availability of EIS's.* Draft and final EIS's will be made available to the public by the responsible federal official. Enough copies of the EIS are to be printed to meet the anticipated demand of agencies, organizations, and individuals who must receive copies as required by CEQ Guidelines and to satisfy a reasonable number of additional requests.

5. Section 650.8 is amended as follows:

- Revise subparagraph (a)(2).
- Revise paragraph (c).
- Add paragraph (c)(6).
- Revise paragraph (1).

§ 650.3 SCS actions covered and excluded.

(a) * * *

(2) Provide for significant modification of channel alignment of capacity of any perennial stream, including the alteration of oxbows or backwater channels; or

(c) *Actions normally excluded from the preparation of EIS's.* Proposals covering the following types of actions are not generally defined as major federal actions significantly affecting the human environment. These actions are excluded from the EIS process and negative declarations, unless they are included in a proposal requiring an EIS as specified in paragraphs (a) and (b) (1) of this section:

(6) Other minor measures.

(i) *Early notice system.* A list of SCS major federal actions in each state on which EIS's are to be prepared is to be furnished by the state conservationist to the Administrator twice each year on July 1, and January 1. The Administrator will consolidate the state(s) lists and forward a single national list to the Council on Environmental Quality (CEQ) twice each year on September 1, and March 1. Each state's list will be available at the appropriate SCS state office for public inspection. A current list of major federal actions on which EIS's will not be prepared (negative declarations) is to be maintained by the state conservationist.

6. Section 650.9 is amended as follows:

a. Revise paragraphs (b) (1) (i) and (2).

b. Delete the present paragraph (b) (3) and redesignate and revise paragraphs (4) as (3) and (5) as (4).

c. Revise paragraph (c) (3).

§ 650.9 Numbering, distributing for comment, and time limits.

(b) * * *

(1) * * *

(i) The federal agencies who have an interest or jurisdiction. Appendix II of the CEQ Guidelines provides guidance for considering sources of special expertise in the areas of energy, pollution, and resource and land use.

(2) *The time period for comment.* The time period for review shall end 45 days after the date the CEQ published notice in the FEDERAL REGISTER of their having received the EIS from SCS. A 15-day extension of time for review and comment will be considered by the responsible federal official when such requests are submitted in writing. Otherwise, it will be presumed that at the end of the 45-day period the agency or party from whom comments were requested has no comments to make.

(3) *News releases.* News releases will be sent to appropriate local media in a timely manner by the responsible federal official.

(4) *Preparing final EIS's.* At the end of the review period, the responsible federal official will prepare the final EIS, taking into consideration substantive comment, including opposing viewpoints received. If significant changes in the proposed action are needed, a revised draft EIS may be necessary and recirculated for comment.

(c) * * *

(3) Single copy requests for the final EIS will be filled by the state conservationist as long as the supply lasts.

7. Section 650.10 is amended as follows:

a. Revise paragraph (c).

§ 650.10 EIS format and content.

(c) Elements to be covered in an EIS are outlined in § 1500.3 of the CEQ Guidelines. These guidelines should be adjusted to specific actions as appropriate, keeping in mind:

- (1) Size and complexity of the proposed action;
- (2) Range of significant environmental factors likely to be affected;
- (3) Number of reasonable alternatives; and
- (4) Detail of information necessary to adequately describe and assess resources and impacts.

8. Section 650.11 is amended as follows:

- a. Delete the present paragraphs (c) (9) and (15).
- b. Redesignate and revise paragraphs (c) (10) through (14) as (c) (9) through (13).
- c. Revise paragraph (d) (2).
- d. Add a new paragraph (g).

§ 650.11 Reviewing and commenting on EIS's prepared by other Federal or nonfederal agencies.

(c) * * *

(9) *The stockpiling, protection, or proper disposition of topsoil.* If this is a significant consideration, does the statement provide for conserving and using topsoil?

(10) *The impact of the proposed action on pollution of land, water, and air.* Does the statement describe the adverse effects? Can the adverse effects be reduced and, if so, by what means?

(11) *Other related sources.* Does the reviewer have information which would indicate significant effects of the proposed action on fish and wildlife habitat, rare and endangered plant and animal species, historical and archeological sites, natural areas, and major plant communities?

(12) *The effect of the proposed action on SCS or other agency projects.* Does the statement reflect the effect of the proposed action on present or planned SCS-assisted projects? Does the reviewer have information on projects of other agencies not recognized in the EIS and which should be called to the attention of the agency which prepared the EIS?

(13) *Flood plain considerations.* Does the reviewer have information relating

to the following: Does the project lie within the bounds of a flood plain? Will the project be damaged by flooding? Will the proposed action cause an increase in flood damage either upstream or downstream? Does the project constitute a precedent in terms of encroachment on this flood plain?

(d) * * *

(2) EIS's received directly by the SCS national office are screened to determine whether inputs from state conservationists are needed. If so, the EIS is sent to the state conservationist concerned. Transmittal of an EIS to a state conservationist shall indicate to whom comments, or copies thereof, are to be sent. If more than one state is involved, the Administrator will designate one state conservationist to coordinate the review and comments.

(g) Third party requests for a copy of SCS comments on other agency's EIS will be forwarded to the requesting party after SCS has forwarded copies of its letter of comments to the CEQ. (See paragraph (d) (5) of this section.

9. Appendix I, Planning Process, is deleted.

10. Appendix II, Interagency Review, is deleted.

11. Appendix III, Typical Outline for Environmental Impact Statement for Complex Watershed, is deleted.

[FR Doc. 76-5034 Filed 3-3-76; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI 900]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Wooster, Wayne County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Wooster, Ohio.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the city must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-

prone areas and the proposed flood elevations are available for review at the Mayor's office, 538 North Market Street, Wooster.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Roy P. Stype, 538 North Market Street, Wooster, Ohio

44691. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or ninety days from publication of this notice in the FEDERAL REGISTER, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Tributary 1.....	Corporate limits east of Route 76.....		20	110
Tributary 2.....	Long Rd.....		5	50
Tributary 3.....	Geyers Chapel Rd.....		10	20
Tributary 2 of Little Apple Creek.....	Woodcrest Dr.....		20	420
Tributary 3 of Little Apple Creek.....	Highland Park Dr.....		85	210
Tributary 4 of Little Apple Creek.....	50 feet west of Route 76.....		20	35
Tributary 5 of Little Apple Creek.....	Cedar Lane.....		15	30
Tributary 6 of Little Apple Creek.....	Highland Park Dr.....		30	20
Tributary 6A of Little Apple Creek.....	50 feet west of Cleveland Rd.....		10	40
Little Apple Creek.....	Along west side of Route 76.....		20	25
Unnamed tributary for Little Apple Creek.....	Northern corporate limits.....		45	45
Cedar Creek.....	South of Milltown Rd. on Melrose Rd.....		20	65
Synders Ditch.....	East of Melrose Rd.....		95	100
Christmas Run.....	Corporate limits east of intersection of Routes 85, 76, and 3.....		65	45
	West of Hickory Lane.....		35	40
	Portage Rd.....		25	40
	East of Wayne Ave. (extended) and east side of Route 76.....		75	160
	Turnoff from Route 76 onto Bowman St.....		35	20
	South of Bowman St.....		35	40
	Southern corporate limits.....		60	420
	Wayne Avenue Culvert.....		40	50
Rillbuck Creek.....	Northwestern corporate limits above Old Mansfield Rd.....		275	30
	Brickyard Rd.....		25	35
	South of Old Mansfield Rd.....	871	60	30
	Bransetter St.....	868	360	40
	Lincoln Way.....	860	920	230
	South of Highland Ave.....		25	20
	Miller Blvd.....		1200	10
	Oakley Rd.....		65	60
	North of Wayne Ave.....		800	50
	Park Blvd.....		20	25
	North of Bowman St.....		360	160
	Saybolt Ave.....	883	20	10
	Larwill St.....	873	60	460
	Liberty St.....	868	20	300
	County Rd.....	862	600	
	U.S. 250-30.....	858	60	(2)
	Southern corporate limits.....	857	115	120
Rillbuck Creek.....	Lincoln Way.....	862	2,035	
	Old Mansfield Rd.....	862	470	
Apple Creek.....	Rebecca St. and Bauer Rd.....	882		120
	North of Pittsburgh Ave. on Bauer Rd.....	881		820
	U.S. Routes 250 and 30.....	865		90
	Bever St.....	863	40	40
	Penn Central R.R.....	859	(3)	40
	Spruce St.....	858	50	70
	Southern corporate limits (between mouth and railroad).....	857		(4)

¹ Along road.

² Along entire road to Lincoln Way.

³ To corporate limits.

⁴ Up to U.S. Routes 250 and 30.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: February 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance
Administrator.

[FR Doc.76-6027 Filed 3-3-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-EA-80]

CANADAIR CL-44D4 and CL-44J

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so

as to issue an airworthiness directive applicable to Canadair CL-44D4 and CL-44J airplanes.

There have been reports of corrosion on the fuselage skin where the bonding strip under the ice guard contacts the fuselage. It appears that the cadmium plating has worn off or been removed from the bonding strips which permits corrosion.

Since this deficiency can exist or develop in airplanes of similar design, the FAA is considering issuing an airworthiness directive requiring repetitive inspections.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Engineering and Manufacturing Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

CANADAIR. Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories.

Compliance required within the next six months, unless already accomplished within the last six months, and thereafter at subsequent intervals not to exceed twenty-four months, after the effective date of this AD.

(a) To detect corrosion in the fuselage skin in the area where the bonding strip under the ice guards contacts the fuselage, inspect bonding strip in accordance with Canadair Service Information Circular No. 385-CL44, dated May 19, 1975, or an approved equivalent inspection.

(b) If corrosion is detected, replace bonding strips and repair fuselage skin in accordance with the circular referenced in paragraph (a) or an approved equivalent alteration.

(c) The repetitive inspection required by this AD also applies to aircraft on which the beryllium copper bonding strips have been replaced by aluminum alloy in accordance with the circular referenced in paragraph (a) or an approved equivalent part.

(d) Equivalent inspections of parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon request, with substantiating data submitted through an FAA maintenance inspector, the compliance time of this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(Sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Jamaica, New York, February 23, 1976.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-6051 Filed 3-3-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-WE-2-AD]

DOUGLAS MODEL DC-10 SERIES AIRPLANES

Notice of Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Douglas Model DC-10 Series airplanes. In connection with its investigation of a DC-10 accident involving depressurization, the National Transportation Safety Board recommended (A-74-11) a more accessible location for the portable oxygen units in the lower galley. To improve accessibility to the portable oxygen units under emergency conditions, and since this condition is likely to exist on other airplanes of the same type, an airworthiness directive is being proposed to require relocation of the portable oxygen units.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before April 9, 1976 will be considered by the agency before taking action upon the proposed rule. The proposals contained in the notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

McDONNELL DOUGLAS, Applies to all Douglas Model DC-10, -10F, -30, and -30F Series

airplanes, certificated in all categories, incorporating lower galleys.

Compliance required within the next 3000 hours' time in service after the effective date of this AD, unless already accomplished.

(a) To provide greater accessibility to the portable oxygen units for the attendants under emergency conditions requiring utilization of available oxygen, accomplish one of the following:

(1) Relocate the portable oxygen units presently located outboard of the emergency escape ladder at fuselage station No. 606 in the lower galley to a position, approved by the Chief, Aircraft Engineering Division, FAA Western Region, which provides greater accessibility from the flight attendants' station; or

(2) An equivalent modification, approved by the Chief, Aircraft Engineering Division, FAA Western Region, which provides greater access to the portable oxygen units from the flight attendants' station.

(b) Special flight permits may be issued per FAR's 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

LYNN L. HINK,
Acting Director,
FAA Western Region.

Issued in Los Angeles, California on February 20, 1976.

[FR Doc.76-6054 Filed 3-3-76;8:45 am]

[14 CFR Part 61]

[Docket No. 15414; Notice No. 76-4]

SECOND IN-COMMAND QUALIFICATIONS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending § 61.55 of the Federal Aviation Regulations to except the holder of a commercial or airline transport pilot certificate with appropriate category and class ratings from certain of the qualification requirements applicable to pilots who serve as second in command of large airplanes or turbojet-powered multiengine airplanes type certificated for more than one required pilot flight crewmember.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C., 20591. All communications received on or before May 4, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 61.55(b)(2) of the Federal Aviation Regulations requires that a second in command of a large airplane, or turbojet-powered multiengine airplane type certificated for more than one required pilot flight crewmember, have

performed and logged (1) three take-offs and three landings to a full stop as the sole manipulator of the flight controls, and, (2) engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command.

The FAA believes that these qualification requirements may be unnecessary when ferry flights, flight tests, or equipment evaluations are conducted, since these operations carry no persons or property, other than as necessary for purposes of the operation.

The FAA believes that the holder of a commercial or airline transport pilot certificate with appropriate class and category ratings possesses sufficient aeronautical experience and knowledge to serve, without derogating safety, as second in command of a large airplane or a turbojet-powered multiengine airplane type certificated for more than one pilot flight crewmember, without meeting the qualification requirements of § 61.55(b)(2), for operations indicated above, provided no persons or property, other than as necessary for the operation, are carried.

In addition to relieving what the FAA now considers to be unnecessary qualification requirements for certain operations, the FAA believes that this proposal, if adopted, may alleviate air traffic congestion in those areas where there is a high concentration of aircraft operations by eliminating some training or qualification flights conducted for the purpose of meeting the requirements of § 61.55.

Therefore, the FAA proposes to amend § 61.55 by adding a new paragraph (e) to except the holder of a commercial or airline transport pilot certificate with appropriate category and class ratings from the qualification requirements of § 61.55(b)(2), for the conduct of ferry flights, aircraft flight tests, and equipment evaluations, provided no persons or property, other than as necessary for the operation, are carried. It should be noted that all other experience and qualification requirements of § 61.55 would continue to apply to second-in-command pilots.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

In consideration of the foregoing, it is proposed to amend § 61.55 of Part 61 of the Federal Aviation Regulations by amending the lead in phrase of paragraph (b)(2) and by adding a new paragraph (e) to read as follows:

§ 61.55 Second-in-command qualifications: operation of large airplanes or turbojet-powered multiengine airplanes.

(b) * * *

(2) Except as provided in paragraph (e), performed and logged—

(e) The holder of a commercial or airline transport pilot certificate with appropriate category and class ratings need not meet the requirements of paragraph (b) (2) for the conduct of ferry flights, aircraft flight tests, or airborne equipment evaluation, if no persons or property other than as necessary for the operation are carried.

Issued in Washington, D.C., on February 24, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-6055 Filed 3-3-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-CE-12-AD]

**BEECH 65, 70 AND 80 SERIES
AIRPLANES**

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Beech 65, 70 and 80 series airplanes. There has been an incident in which a passenger on a Beech Model A80 airplane released an emergency exit door during an emergency landing and this door struck and damaged the horizontal stabilizer. Although in the incident just described a successful emergency landing was accomplished, a similar occurrence could result in loss of adequate aircraft control for a safe landing. Existing aircraft flight manuals and placards do not provide guidance or warnings concerning the opening of the emergency exit hatch. Since the condition described herein exists on other airplanes of the same type design, an AD is being proposed, applicable to Beech 65, 70 and 80 series airplanes, which will require the addition of a supplement to the existing FAA-approved airplane flight manual for these aircraft and the installation of a warning decal below the existing emergency exit operations instruction placard which states: "DO NOT OPEN IN FLIGHT".

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, 1558 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before April 5, 1976, will be considered before action is taken upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601 and 603

of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new AD.

BEECH. Applies to Models 65, A65 and A65-8200 (Serial Numbers L-1, L-2, L-3, LF-7, LF-8 and LC-1 thru LC-335), Model 70 (Serial Numbers LB-1 thru LB-35), and Models 65-80, 65-A80, 65-A80-8800 and 65-B80 (Serial Numbers LD-1 thru LD-494) airplanes.

Compliance: Required as indicated, unless already accomplished.

To provide instruction on the operation of the emergency exit door, within the next 100 hours' time in service after the effective date of this AD, accomplish the following:

(A) On all airplanes, below the existing emergency exit operating instructions placard, install P/N 50-535033-7 decal or an equivalent pressure sensitive decal which reads: "Do not open in flight."

(B) On all airplanes, except Model 65-B80, add Airplane Flight Manual Supplement P/N 131330 dated March 28, 1975, or later date, to the existing FAA-approved flight manual.

(C) On Model 65-B80 airplanes, examine the FAA-approved flight manual to verify that it is P/N 50-590211-1A3, revised May 30, 1975, and if not, install same in the airplane.

Issued in Kansas City, Mo., on February 26, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-6315 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

ALTERATION OF TRANSITION AREA

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the El Campo, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Adminis-

tration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (41 FR 440), the El Campo, Tex., transition area is amended as follows:

EL CAMPO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the El Campo Airport (latitude 29°16'00" N, longitude 96°19'30" W.); within a 5-mile radius of the El Campo Metro Airport (latitude 29°11'00" N, longitude 96°18'45" W.) and within 3 miles each side of the 181°T (176°M) bearing from the proposed NDB (latitude 29°10'35" N, longitude 96°19'11" W.) extending from the 5-mile-radius area to 3.5 miles south.

The proposed alteration of the El Campo, Tex., transition area will provide controlled airspace for aircraft executing the proposed NDB RWY 35 (Original) instrument approach procedure.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX, on February 19, 1976.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76-5591 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 70-NW-05]

**DESIGNATION OF FEDERAL AIRWAYS,
AREA LOW ROUTES, CONTROLLED AIR-
SPACE, AND REPORTING POINTS**

Transition Area; Correction

On January 30, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 4601) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Yakima, Washington, Transition Area. A review of that document has revealed that a typographical error was made in line 8 of the proposed Transition Area description. The listed distance of "35 miles north" should have been "3.5 miles north." Action is taken herein to correct that error.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In Section 71.181 (41 FR 621), the description of the Yakima, Washington, Transition Area be amended to read as follows:

YAKIMA, WASHINGTON

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Yakima Airport (Latitude 46°33'35" N, Longitude 120°32'25" W.), within 5 miles northeast and 10 miles southwest of the Yakima VORTAC 115° and 295° radials, extending from 1 mile northwest to 23 miles southeast of the VORTAC, and within 3.5

miles north and 5 miles south of the ILS localizer west course, extending from 11 to 27 miles northwest of the Donald OM; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Yakima VORTAC, excluding the airspace north of Yakima that overlies the Ellensburg, Washington, Transition Area; that airspace northeast of the 25-mile radius circle bounded on the north by Latitude 47°00', on the east by 120°00', on the southeast by V-448, and on the northwest by the Ellensburg, Washington, Transition Area; that airspace within 9 miles northeast and 6 miles southwest of the Yakima VORTAC 129° radial, extending from the VORTAC to 33 miles southeast of the VORTAC; and that airspace south of the 25-mile radius circle bounded on the northeast by V-4, on the south by V-520, and on the west by V-25E.

It is believed that interested persons should have additional time to comment on this proposal in view of the correction described above. Therefore, interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on February 20, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.76-5845 Filed 3-3-76; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SO-161]

DESIGNATION OF A VOR AIRWAY

Revocation of a VOR Airway Segment

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR airway and revoke a VOR airway segment in the Montgomery, Ala., Eufaula and Columbus, Ga., area.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta,

Ga. 30320. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591.

The proposed amendment would designate a VOR airway direct from Montgomery, Ala., to Eufaula, Ga., and revoke V-56S between Montgomery and Columbus, Ga.

The designation of a VOR airway from Montgomery to Eufaula will aid aviation interests in energy conservation and provide a more expeditious routing of traffic. In addition, a continuing review of airway utilization reveals the use of the segment of V-56S between Montgomery and Columbus is no longer sufficient to justify retention of this segment of the airway.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 25, 1976.

[FR Doc.76-5846 Filed 3-3-76; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-GL-2]

ALTERATION OF TRANSITION AREA

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at New Castle, Indiana.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become

part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed to the New Castle-Henry County Municipal Sky Castle Airport, New Castle, Indiana. Additional controlled airspace is required to protect this procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (41 FR 440), the following transition area is amended to read:

NEW CASTLE, INDIANA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of New Castle-Henry County Municipal Sky Castle Airport (latitude 30°51'50" N., longitude 85°19'24" W.); and within 3 miles either side of a 260° bearing from the airport, extending from the 6-mile radius to 8 miles west of the airport.

(Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois, on February 13, 1976.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.76-6056 Filed 3-3-76; 8:45 am]

[14 CFR Part 71]

(Airspace Docket No. 76-NW-06)

ALTERATION OF TRANSITION AREA

Notice of Proposed Rulemaking

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Corvallis, Oregon, Transition Area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained

in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108.

A new VOR/DME approach procedure has been designed for the Corvallis Municipal Airport, Corvallis, Oregon. A review of the airspace requirements for the new procedure reveals that additional 700' Transition Area airspace will be required to provide controlled airspace protection for aircraft executing the new procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In Section 71.181 (41 FR 476), the description of the Corvallis, Oregon, Transition Area is amended to read as follows:

CORVALLIS, OREGON

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Corvallis Municipal Airport (Latitude 44°-29'50" N., Longitude 123°17'10" W.) within 4.5 miles each side of the Corvallis VOR 029 radial, extending from the 7-mile radius area to 14 miles northeast of the VOR, within 5 miles west of the Corvallis VOR 014 radial, extending from the 7-mile radius area to 15 miles north of the VOR, within 5 miles each side of the Eugene, Oregon, VORTAC 345 radial, extending from 10 to 17 miles north of the VORTAC, and within 5 miles each side of the Corvallis VOR 180 radial, extending from the 7-mile radius area to 11 miles south of the VOR excluding that portion overlying the Eugene, Oregon, Transition Area; that airspace extending upward from 1,200 feet above the surface within 6 miles northwest and 8 miles southeast of the Corvallis VOR 029 and 209 radials, extending from 6 miles southwest to 17 miles northeast of the VOR.

(Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on February 24, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.76-6052 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-83]

ALTERATION OF VOR FEDERAL AIRWAYS

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would exclude the airspace from 10,000 feet to 15,000 feet MSL within 15 NM of the Tidoute, Pa., VORTAC from V-72, V-115, V-116, V-126, V-170, V-184 and V-188 airways during the times that the Youngstown Military Operations Area (MOA) is in use.

Interested persons may participate in the proposed rule making by submitting

such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief. Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591.

The proposed amendment would exclude the airspace from 10,000 to 15,000 feet MSL, during the times that the Youngstown MOA is in use, from the following airway segments:

- V-72 from 15 NM west to 15 NM east of Tidoute.
- V-115 from 15 NM southwest to 15 NM northeast of Tidoute.
- V-116 from 46 NM to 25 NM west of Bradford, Pa.
- V-126 from 46 NM to 25 NM west of Bradford, Pa.
- V-170 from 46 NM to 25 NM west of Bradford, Pa.
- V-184 from 15 NM northwest to 15 NM southeast of Tidoute.
- V-188 from 15 NM west to 15 NM east of Tidoute.

The Youngstown, Ohio, MOA would be established as follows:

Boundaries. That airspace within a 15 nautical mile radius of the Tidoute, Pa., VORTAC (Lat.41°42'47"N., Long. 79°25'03"W.)

Altitudes. 10,000 to 15,000 feet MSL.

Time of use. 1000 to 1130 hours and 1400 to 1530 hours local time, Tuesday through Saturday; other times by NOTAM.

Controlling agency. Federal Aviation Administration, Cleveland ARTC Center.

Scheduling agency. Commander, 910th Tactical Fighter Group, Air National Guard, Youngstown, Ohio.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(a)).)

Issued in Washington, D.C., on February 26, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.76-6058 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-19]

DESIGNATION OF TRANSITION AREA

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Cullman, Ala., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Cullman transition area would be designated as:

CULLMAN, ALA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Folsom Field (Lat. 34°15'57" N., Long. 86°51'35" W.); within 3.5 miles northwest and 6.5 miles southeast of the 023° bearing of the Cullman RBN (Lat. 34°20'24" N., Long. 86°49'28" W.), extending from the 6.5-mile radius to 11.5 miles northeast of the RBN; excluding the portion that coincides with the Huntsville, Ala., transition area.

The proposed designation is required to provide controlled airspace protection for IFR operations at Folsom Field. A prescribed instrument approach procedure to this airport, utilizing the Cullman (nonfederal) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on February 23, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-6053 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-GL-3]

DESIGNATION OF TRANSITION AREA

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the

Federal Aviation Regulations so as to designate a transition area at Waupaca, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

An instrument approach procedure has been developed to the Waupaca Municipal Airport, Waupaca, Wisconsin. Controlled airspace is required to protect this procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (41 F.R. 440), the following transition area is added:

WAUPACA, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waupaca Municipal Airport (latitude 44°20'02" N., longitude 89°00'51" W.); and within 3 miles each side of the 118° bearing from the airport, extending from the 5-mile radius area to 8 miles southeast of the airport.

(Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Des Plaines, Illinois on February 13, 1976.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.76-6057 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-RM-3]

EXTENSION OF VOR FEDERAL AIRWAY
Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V-113 from Butte, Mont., to Lewiston, Mont., via Helena Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief. Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591.

The proposed amendment would extend V-113 from Butte direct to Helena direct to Lewistown.

The number of flights presently being flown along this route appears to justify its designation as an airway. The airway distance between Butte and Helena, and also between Helena and Lewistown would be greatly reduced by this direct airway designation.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 26, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.76-6059 Filed 3-2-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WE-2]

TRANSITION AREA
Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Yuma, Arizona transition area.

An instrument approach procedure is being developed for Laguna Army Airfield, Yuma Proving Ground, Arizona utilizing the Yuma, Arizona VORTAC. The additional 700 foot transition area would provide airspace for this new approach procedure. The transition area is designed to protect aircraft utilizing this procedure while operating down to 1000 feet above the terrain.

Interested persons may participate in the proposed rulemaking by submitting

such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (41 FR 440) the description of the Yuma, Arizona Transition Area is amended by inserting after the words "longitude 114°30'00" W.," the following: " * * * within 3 miles each side of the Yuma VORTAC 062° radial, extending from the VORTAC to 16 northeast of the VORTAC * * * "

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), sec. 6 (c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on February 25, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76-6192 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-AL-2]

BRYANT AAF CONTROL ZONE
Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would provide the effective times of the Bryant AAF, Alaska, control zone to be changed by issuance of a Notice to Airmen.

The effective period of the Bryant AAF control zone is from 0700 to 2100 hours, local time daily. Minor variations in time of designation are anticipated. In order to allow for minor variations, it is proposed to amend the Anchorage, Alaska (Bryant AAF) control zone by deleting, "This control zone is effective from 0700 to 2100 hours, local time daily," and substituting "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska."

All communications received on or before April 5, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division, AAL-500.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Anchorage, Alaska, on February 27, 1976.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc.76-6313 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-GL-5]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Effingham, Illinois.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before April 5, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Effingham County Memorial Airport. Additional controlled airspace is required to protect the procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 7 of the Federal Aviation Regulations as hereinafter set forth:

In § 7.8 (41 FR 440), the following transition area is amended to read:

EFFINGHAM, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Effingham County Memorial Airport (latitude 39°04'15" N., longitude 88°32'15" W.); within 1½ miles either side of the 344° radial of the Bible Grove VORTAC extending from the 5-mile radius to the Bible Grove VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on February 19, 1976.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.76-6314 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-CE-1]

FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would cap small segments of VOR Federal Airways V-72, V-88, V-175, V-178, V-190, V-234 and V-238 at 8,000 feet MSL in the vicinity of Farmington, Mo., only during those times that a Military Operations Area (Meramec MOA) is in use.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before April 5, 1976, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed action would amend the following airway segments to exclude the airspace at and above 8,000 feet MSL within the Meramec MOA during the times that the Meramec MOA is in use (per NOTAM):

- a. V-72 between Maples, Mo., and Farmington, Mo.
- b. V-88 between Vichy, Mo., and the INT Vichy 091° and St. Louis, Mo., 171° radials.
- c. V-175 between Malden, Mo., and Vichy, Mo.
- d. V-178 between Vichy, Mo., and Farmington, Mo.
- e. V-190 between Maples, Mo., and Farmington, Mo.
- f. V-234 between Vichy, Mo., and the INT Vichy, 091° and Centralia, Ill., 253° radials.
- g. V-238 between Maples, Mo., and Troy, Ill.

The Meramec MOA would be established as follows:

Boundaries. Beginning at Lat. 37°40'24" N., Long. 90°21'35" W., to Lat. 37°13'46" N., Long. 90°34'02" W., to Lat. 37°21'48" N., Long. 91°24'25" W., to Lat. 38°02'58" N., Long. 91°29'40" W., to Lat. 38°11'31" N., Long. 91°12'55" W., to Lat. 38°09'14" N., Long. 90°36'53" W., to point of beginning. Altitudes. 8,000 feet MSL to but not including FL 180.

Time of use. Only when established by NOTAM (normally 0800 to 1400 local time, Tuesday through Saturday).

Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.

Scheduling agency. Commander, 131 Tactical Fighter Wing, Robertson ANG Base, St. Louis, Mo.

The proposed airway amendment would provide airspace for a type of training that is prohibited in airways.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Washington, D.C., on March 1, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.76-6316 Filed 3-3-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-GL-68]

FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would cap small segments of Federal Airways V-45 and V-78 at 10,000 feet MSL only during those times that a Military Operations Area (MOA) in the vicinity of Alpena, Mich., is in use.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before April 5, 1976,

will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue SW., Washington, D.C. 20591.

The proposed action would amend V-45 and V-78 to exclude the airspace above 10,000 feet MSL within 30 nautical miles north and 25 nautical miles northwest respectively, of the Alpena, Mich. VORTAC only during the time that the Collins MOA is in use (activated by NOTAM).

The Collins MOA would be established as follows:

Boundaries. That area within 30 nautical miles of the Alpena, Mich., VORTAC extending clockwise from the 316°T (320°M) to the 113°T (117°M) radials excluding the Alpena control zone.

Altitudes. 10,000 feet MSL to but not including FL 180.

Time of use. Only when established by NOTAM (normally April 1 to October 30) from 0600 to 2200 local time daily.

Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.

Scheduling agency. Commander, Air National Guard Training Site, Phelps-Collins Air National Guard Base, Alpena, Mich.

This action would provide airspace for a type of training that is prohibited in an airway.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (e)).

Issued in Washington, D.C., on March 1, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 76-6317 Filed 3-3-76; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 76-WE-1]

ALTERATION OF JET ROUTES

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign three jet routes over the western shores of the United States.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should

identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before April 5, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center, AIS-230, 800 Independence Avenue SW., Washington, D.C. 20591.

The proposed amendment would:

1. Realign J-88 between Salinas, Calif., and Point Reyes, Calif.
2. Realign J-110 between Salinas, Calif., and Oakland, Calif.
3. Realign J-501 between Medford, Oreg., and Point Reyes, Calif.

This amendment will reduce the route distance between Medford, Oreg., and Point Reyes, Calif., and provide continuous preferential routing with charted radials, distance and minimum en route altitudes between Salinas and Point Reyes, Calif.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (e)).)

Issued in Washington, D.C., on February 25, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 76-6050 Filed 3-3-76; 8:45 am]

[14 CFR Part 93]

[Docket No. 13817; Notice No. 76-5]

NELLIS AFB

Proposed Special Air Traffic Rule

The Federal Aviation Administration (FAA) is considering amending Part 93 of the Federal Aviation Regulations (14 CFR Part 93) to establish special air traffic rules for operating areas that would be established adjacent to Nellis Air Force Base (AFB) and Energy Research and Development Administration (ERDA) restricted areas located generally north of Las Vegas, Nevada. Airspace Docket No. 75-WA-21 issued concurrently herewith, proposes related airspace actions that would designate Restricted Area R-4817, Tonopah, Nev., alter the descriptions of Nellis AFB and ERDA Restricted Areas R-4807, R-4808

and R-4809, and would make all of the Nellis AFB, and ERDA restricted areas in this complex except R-4808 joint use.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. Comments on the overall environmental impacts of the proposed rule are specifically invited. All communications received on or before June 4, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

On June 12, 1974, an advance notice of proposed rule making, Notice No. 74-20, was published in the Federal Register (39 F.R. 20612) stating that the Federal Aviation Administration had received a request from the Department of the Air Force to propose the restructuring of certain Nellis AFB restricted areas, the designation of a new restricted area tentatively identified as R-4817, and the establishment of two new operating areas adjacent to proposed R-4817 wherein special air traffic rules would apply.

As stated in the Notice No. 74-20, the Air Force has a requirement for a controlled operational environment large enough to allow participating aircraft to simulate combat conditions with the capability to test and evaluate aircrew effectiveness in the delivery of airborne weapons, and the performance of combat tactics at supersonic speeds. The military activities include air-to-air combat maneuvering, air-to-ground attack maneuvering, simulated combat search and rescue, simulated combat tactical airlift, reconnaissance missions at low and intermediate altitudes and at varying speeds, tests of remotely piloted aircraft, and simulated strategic bombing missions. These missions would be flown by individual aircraft, small formations and, on occasion, as large scale exercises. The operating areas within which the special air traffic rules proposed herein would apply would be used for operational testing under simulated combat conditions. The maneuvers would involve flights at very high speeds, subsonic flights at low altitude, and vertical movement tactics. To accommodate this activity with safety, an area with low densities of population and air traffic is desired. The operating areas proposed herein were selected on that basis.

Each operating area would extend from 100 feet above the surface to, but not including, Flight Level 180. As proposed herein, the public may operate within these areas at all times and at any altitude that would be otherwise available to that aircraft, provided that ATC is notified, prior to entry, of the

intended route, and that radio communications with ATC are maintained continuously or to the extent limited by radio reception, while operating within either of these areas. Notification may be accomplished either by filing a flight plan or by an inflight radio communication with ATC, prior to entering the area, identifying the aircraft and its proposed route, including point of entry and exit (or destination), altitude and airspeed.

Several VFR flyways, generally of three nautical miles in width, and extending from 1,500 above the surface to and including 12,500 feet above mean sea level, would traverse each of the two areas primarily to accommodate aircraft not equipped with radios. No prior notice, clearance, or maintenance of communications would be required for any flight operation within these VFR flyways. However, pilots would be encouraged to contact ATC in the interest of safety.

Comments received in response to the advance notice, and forthcoming from approximately 70 meetings held by the Air Force with the public or user groups, raised a number of objections, principally that the proposed operating areas (1) would impede surface activities such as mining, grazing of live stock, hunting, etc.; (2) would preclude or unduly inhibit aerial operations necessary to support mining, geological activities, ranching, and transiting or local flight operations; (3) would have a detrimental effect on airport revenue in Nevada; (4) would increase aircraft operating costs; (5) would be effectively sealed off from the public through failure to establish communications with the appropriate military users; and (6) would not contain a sufficient number of VFR flyways.

The proposed areas should not interfere with any surface activity since they extend no lower than 100 feet above the surface. No ordinance would impact within the proposed areas, and it is not the intention of the Air Force to gain land use rights underlying the proposed operating areas except for certain small leased parcels needed for the installation of air traffic surveillance radar, communications and operational test equipment, and evaluation and training equipment.

This proposal would not preclude aerial operations necessary to support surface activity nor would it unduly interfere with those activities or other transiting or local flight operations. The Air Force would accommodate public flight operations in the proposed areas by vectoring the military operations around the routes and altitudes as notified by the operators of transiting aircraft. On occasions when large scale exercises may be scheduled, the public may be requested to avoid certain areas in the interest of safety, but it is the stated intention of the users not to interfere with the route an operator of a civil aircraft has stated that he intends to follow. It is for that reason that prior notification of routes and maintenance of radio communications is required.

This proposal should not have a detrimental effect on airport revenue, nor cause any increase in aircraft operating cost that is not outweighed by the advantages of enhanced flight safety. Flight to or from airports within the areas would not be prohibited nor would routes proposed by the public be restrained except to the extent that a deviation may be recommended occasionally for safety considerations. The operating areas would not become effective until sufficient radar surveillance and communications capability are available to ensure complete separation of aircraft. This communications capability also would assist in providing point-to-point vectoring service. Further, search and rescue capability would likewise be enhanced.

The Air Force agreed with several of the public comments suggesting that the VFR flyways be widened. Therefore, as now proposed, they would be 3 nautical miles wide (1.5 nautical miles each side of the centerline) except for the east-west flyway underlying V-244 which would have the width of that airway. It is recognized that the possibility exists wherein deviation from a VFR flyway would be necessary to avoid inclement weather or for safety considerations as determined by the pilot. When such deviation occurs, the pilot of an aircraft not having radio communications capability would be expected to take due regard for all other aircraft and return to the VFR flyway as soon as practicable.

The Department of the Air Force has requested that the operating areas be identified as Sadek North and Sadek East, to commemorate Lt. Col. Louis C. Sadek (deceased) who was instrumental in developing the concept of these operating areas.

A VFR flyway in the Sadek North area aligned along State Highway 93 that was inadvertently omitted from the advance notice is included in this proposal. The using agencies understand that their aircraft would be required to observe the minimum safe altitude requirements prescribed in § 91.79 of Part 91 of the Federal Aviation Regulations.

Authority: Sections 307 and 313(a) of the Federal Aviation Act of 1958, (49 U.S.C. 1348 and 1354(a)); and section 6(c) of the Department of Transportation Act, (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations by adding a new Subpart G to read as follows:

Subpart G—Nellis AFB, Nevada, Operating Areas

- Sec.
93.91 Applicability.
93.93 Description of areas.
93.95 Aircraft operations.

§ 93.91 Applicability.

This subpart prescribes the Sadek North and Sadek East operating areas, and the special air traffic rules for operating aircraft within these areas.

§ 93.93 Description of areas.

(a) Sadek North.

(1) Boundaries:

Beginning at Lat. 37°59'55" N., Long. 116°38'10" W.; to Lat. 38°00'10" N., Long. 116°33'30" W.; to Lat. 38°00'30" N., Long. 116°33'45" W.; to Lat. 38°01'50" N., Long. 116°19'45" W.; to Lat. 38°01'40" N., Long. 115°58'00" W.; to Lat. 38°06'00" N., Long. 115°28'00" W.; to Lat. 38°07'00" N., Long. 115°18'00" W.; to Lat. 38°10'50" N., Long. 114°24'30" W.; to Lat. 38°11'50" N., Long. 114°27'30" W.; to Lat. 38°30'00" N., Long. 114°35'15" W.; to Lat. 38°30'00" N., Long. 116°38'00" W.; to point of beginning.

Altitude: from 100 feet above the surface to, but not including, Flight Level 180.

Time: Continuous.

Controlling agency: Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency: USAF Tactical Fighter Weapons Center, Nellis AFB, Nev.

(2) VFR flyways—extending in altitude from 1,500 feet above the surface to and including 12,500 feet MSL in the following areas:

(i) Flyway A. Beginning at Lat. 38°30'00" N., Long. 115°55'00" W.; thence southwest, 1.5 nautical miles on each side of U.S. Highway 6 to Lat. 38°08'30" N., Long. 116°38'00" W.

(ii) Flyway B. Beginning at Lat. 38°30'00" N., Long. 115°37'00" W.; thence southwest, 1.5 nautical miles on each side of a direct line to Lat. 38°13'00" N., Long. 115°48'00" W.

(iii) Flyway C. Beginning at Lat. 38°30'00" N., Long. 115°37'00" W.; thence south, 1.5 nautical miles on each side of State Highway 38 to Lat. 38°16'45" N., Long. 115°01'45" W.

(iv) Flyway D. V-244 and the airspace thereunder extending upward from 1,500 feet above the surface is a VFR flyway for east-west bound traffic between Tonopah, Nevada, and Wilson Creek, Nevada.

(v) Flyway E. Beginning at Lat. 38°30'00" N., Long. 114°38'55" W.; thence south, 1.5 nautical miles on each side of State Highway 93 to Lat. 38°18'40" N., Long. 114°36'25" W.

(b) Sadek East.

(1) Boundaries:

Beginning at Lat. 38°07'00" N., Long. 115°18'00" W.; to Lat. 37°17'00" N., Long. 115°18'00" W.; to Lat. 37°17'00" N., Long. 113°58'45" W.; to Lat. 37°31'00" N., Long. 113°47'30" W.; to Lat. 37°36'00" N., Long. 113°44'00" W.; to Lat. 37°41'00" N., Long. 113°40'00" W.; to Lat. 37°52'20" N., Long. 113°30'30" W.; to Lat. 38°10'50" N., Long. 114°24'30" W.; to point of beginning.

Altitude: From 100 feet above the surface to, but not including, Flight Level 180.

Time: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles ARTC Center.

Using agency: USAF Tactical Fighter Weapons Center, Nellis AFB, Nev.

(2) VFR flyways—extending in altitude from 1,500 feet above the surface

to and including 12,500 feet MSL in the following areas:

(i) Flyway A. Beginning at Lat. 37°17'00"N., Long. 115°07'00"W., thence north 1.5 nautical miles on each side of U.S. Highway 93 to Lat. 37°31'40"N., Long. 115°13'30"W.; thence northwest 1.5 nautical miles on each side of State Highway 25 to Lat. 37°32'00"N., Long. 115°14'00"W.; thence north 1.5 nautical miles on each side of State Highway 38 to Lat. 38°08'30"N., Long. 114°58'05"W.

(ii) Flyway B. Beginning at Lat. 37°17'00"N., Long. 114°28'25"W.; thence north 1.5 nautical miles on each side of the Union Pacific railroad track to Caliente, Nev.; thence north 1.5 nautical miles on each side of U.S. Highway 93 to Lat. 38°10'05"N., Long. 114°35'20"W.

(iii) Flyway C. Beginning at Lat. 37°47'30"N., Long. 114°24'30"W., thence east 1.5 nautical miles on each side of U.S. Highway 25 to Modena, Utah, thence northeast 1.5 nautical miles on each side of the Union Pacific railroad track to Lat. 37°54'30"N., Long. 113°37'30"W.

§ 93.95 Aircraft operations.

Except when operating within a VFR flyway, no person may operate an aircraft in flight within an operating area prescribed in § 93.93 of this subpart unless—

(a) Before operating within that area, that person notifies an appropriate ATC facility of his intended flight route therein, including identification of aircraft, point of entry and exit or destination, altitude and airspeed; and

(b) That person maintains two-way radio communications with an appropriate ATC facility while operating within that area.

Issued in Washington, D.C., on February 27, 1976.

GLEN D. TIGNER,
Acting Director, Air Traffic Service.

[FR Doc. 76-6290 Filed 3-3-76; 8:45 am]

National Highway Traffic Safety Administration

[49 CFR Parts 571, 581]

[Docket No. 74-11, Notice 13; Docket No. 73-19, Notice 10]

MOTOR VEHICLE SAFETY AND DAMAGE STANDARDS

Bumper Requirements

The purpose of this notice is to propose amendments to Standard No. 215, *Exterior Protection*, and Part 581, *Bumper Standard*, that would permit compliance with either Standard No. 215 or Part 581 prior to the September 1, 1978 mandatory effective date for Part 581.

On July 9, 1975, the National Highway Traffic Safety Administration proposed to amend Standard No. 215, *Exterior Protection* (49 CFR 571.215) and Part 581, *Bumper Standard* (49 CFR Part 581), to permit testing that would allow production of vehicles with soft exterior

surfaces (39 FR 25237). Currently, Standard 215 does not permit contact during pendulum testing with Planes A and B of the pendulum test device. The planes of the test device represent areas of a vehicle that normally house safety components. Prohibiting contact with these planes during pendulum testing assures a low level of bumper hostility that could otherwise cause safety-related damage to vehicles impacted during low-speed collisions.

General Motors (GM) petitioned the NHTSA to amend Standard No. 215 to allow the manufacture of vehicles using soft-surfaced materials in bumpers and adjacent surfaces. GM supported its request by pointing out the greater bumper design flexibility that would be enabled by permitting use of soft-faced systems. Since the soft-face concept employs materials that yield when impacted, most vehicles with such bumper systems would not be capable of complying with the Plane A and B contact prohibition.

Recognizing the importance of encouraging development of this new type of bumper system, the NHTSA proposed to amend Standard 215 and Part 581 to allow contact with Planes A and B during testing. Such an amendment would remove the current restriction on the use of yielding materials in bumpers. In order to maintain the level of bumper performance currently assured by the Plane A and B prohibition, the NHTSA also proposed to limit the amount of force and pressure that could be exerted on the planes when they were contacted. The force and pressure specifications would limit bumper hostility and damageability.

Comments submitted to the docket in response to the notice objected to the pressure limitation due to the complexity of the specified test procedure and the high testing costs it would impose. The NHTSA found merit in the objections and concluded that the damage criteria contained in Part 581 could assure the same level of bumper damage resistance as would the pressure limitation. Part 581, which includes comprehensive surface damage criteria, was published today as a final rule with a provision permitting contact with the pendulum planes where the total combined force on Planes A and B does not exceed 2,000 pounds and damage to the vehicle does not exceed the limits specified. Since Standard 215 does not contain provisions limiting damage to vehicle surface areas, permitting Plane A and B contact, not restricted to a maximum pressure level, could make a vehicle susceptible to extensive damage. For this reason, Standard 215 is not amended to allow contact with the pendulum planes.

Since Part 581 is not scheduled to become effective until September 1, 1978, manufacturers would not be able to take advantage of the Plane A and B contact permission until that time. In the interest of encouraging development of soft-material systems, such as those described by GM, the NHTSA proposes that manufacturers be permitted to comply with the requirements of Part 581 before its 1978 effective date. In this way, vehicles with soft-face systems could be manu-

factured as long as they met the Part 581 damage criteria. Manufacturers, however, could choose to continue to comply with the requirements of Standard 215, until September 1, 1978, at which time compliance with Part 581 becomes mandatory.

In consideration of the foregoing, it is proposed that S3. of Standard No. 215 (49 CFR 571.215) and the effective date of Part 581 (49 CFR Part 581) be amended as follows:

(1) S3. of Standard No. 215 is amended to read:

This standard applies to passenger cars. However, it does not apply to passenger cars that meet the requirements of Part 581 of this Chapter.

(2) The Part 581 effective date is amended to read:

Effective date: September 1, 1978.

Before that date vehicles may be manufactured in conformity with this Part instead of conforming with Standard No. 215 (§ 571.215 of this chapter).

Comment closing date: April 19, 1976.

Proposed effective date: Date of publication of the final rule in the FEDERAL REGISTER.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegations of authority at 49 CFR 1.51 and 501.8)

Issued on February 27, 1976.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc. 76-6079 Filed 2-27-76; 2:36 pm]

[Docket No. 1-21; Notice 3]

THEFT PROTECTION

Advance Notice of Proposed Rulemaking

This is an advance notice of proposed rulemaking to advise the public that the National Highway Traffic Safety Administration (NHTSA) is considering upgrading the requirements of Federal Motor Vehicle Safety Standard No. 114, 49 CFR 571.114, to provide greater vehicle security. No rule will be issued without further notice and opportunity for comment.

Paragraph S4.1 of Standard No. 114 requires each passenger car manufactured on or after January 1, 1970, to have a key locking system that, whenever the key is removed, will prevent either steering or forward self mobility of the car, or both. While some studies indicate that currently-used key locking systems are a deterrent to auto theft, the NHTSA believes that the standard can be made more effective and consequently reduce the number of deaths and injuries related to auto theft. This effectiveness can be increased by upgrading the requirements of the physical security systems and extending the applicability of the standard to all motor vehicles except trailers. The NHTSA is also considering requiring more effective hood and trunk locks to make vehicle penetration more difficult, and thereby reduce vehicle theft. The proposed effective date for the amendment will be September 1979.

To reduce auto theft, the NHTSA is considering various approaches to improve the security of motor vehicles. The goal of the NHTSA is to preclude the unauthorized activation of the vehicle within a short period of time.

The NHTSA is currently considering establishing one or more of the following requirements. Comments are requested concerning the cost and reliability of proposed equipment and devices, as well as objective requirements to carry out the upgrading of the standard.

1. An ignition, steering, transmission or other locking system so designed, constructed, and fitted that it cannot be defeated by ordinary means within a short time duration.

2. Door and trunk locks so designed, constructed and fitted that they cannot be made inoperative or deactivated by ordinary means within a short time duration.

3. Hood locking and trunk locking release mechanisms that shall be operable from inside the vehicle.

4. A locking system that requires that the key or device that activates the steering lock shall be different from the key or device required to operate the door and trunk locks.

5. A steering lock system which will prevent accidental activation of the steering lock while the vehicle is in motion for those vehicles in which the requirements are met by provision of a steering lock.

6. A physical security system that will discourage or prevent the operator from leaving the key or activating device in the vehicle ignition.

This advance notice is part of an interagency approach to achieve a reduction in auto theft throughout the United States. The Interagency Committee on Auto-Theft Prevention is jointly headed by the Secretary of Transportation and the Attorney General, and includes representatives of the Departments of State, Commerce, and Treasury and the Office of Management and Budget. This coordinated approach involves the Federal Government, the States and the private sector. All the aspects of a vehicle's life from its initial production to its final disposition will be studied to develop means of reducing the growing national theft problem.

In the interest of developing wider dialogue and international cooperation in attacking the vehicle theft problem, the NHTSA is also requesting comments on a regulation on unauthorized vehicle use developed by the Economic Commission for Europe. It is Regulation Number 18: "Uniform Provisions Concerning the Approval of Power-Driven Vehicles with Regard to the Protection Against Unauthorized Use." The revised draft of Regulation Number 18 dated April 7, 1975, has been amended to reflect NHTSA requirements. (The paragraph numbers as reproduced herein are unchanged from the original draft, so that they are not all in sequence.) Amended Regulation Number 18 follows as Appendix A.

The views of all interested parties, particularly, component suppliers, vehicle manufacturers, and specialists in physical security system and devices are solicited. Comments relative to costs and manufacturing lead times are particularly desirable. It is anticipated that a public meeting to consider the issues raised by this notice will take place shortly after the comment closing date.

Interested persons are invited to submit comments on this advance notice. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that persons continue to examine the docket for new material.

Comment closing date: June 2, 1976.

(Secs. 103, 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 501.8.)

Issued on February 27, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

REGULATION NO. 18

UNIFORM PROVISIONS CONCERNING THE APPROVAL OF POWER-DRIVEN VEHICLES WITH REGARD TO THEIR PROTECTION AGAINST UNAUTHORIZED USE

1. Scope.

1.1 This Regulation applies to protective devices designed to prevent the unauthorized use of power-driven vehicles having at least three wheels.

2. Definitions.

2.3 "Protective device" means a system designed to prevent unauthorized normal activation of the engine or other source of main engine power of the vehicle in combination with at least one system which: locks the steering; or locks the transmission; or locks the gear-shift control; or any system within the art which effectively prevents the unauthorized movement of the vehicle;

2.4 "Steering" means the steering control, the steering column and its accessory cladding, the steering shaft, the steering gearbox and all other components which directly affect the effectiveness of the protective device;

2.5 "Combination" means one of the specifically planned and constructed variations of a locking system which, when properly activated, permits operation of the locking system;

2.6 "Key" means any device designed and constructed to provide a method of operating a locking system which is designed and constructed to be operated by that device.

3. General Specifications.

5.1 The protective device shall be so designed that it is necessary to put it out of action in order to enable:

5.1.1 The engine to be started by means of the normal control; and

5.1.2 The vehicle to be steered, driven or moved forward under its own power.

5.2 The requirements of paragraph 5.1 shall be met by the single application of one key.

5.2.1 The optional fitting of supplementary devices to prevent unauthorized use of the vehicle shall be permitted, even if they require a separate means of activation.

5.3 A system operated with a key inserted in a lock shall not permit removal of the key before the protective device referred to in paragraph 5.1 has come into action or has been set to act.

5.4 The protective device referred to in paragraph 5.1 above, and the vehicle components on which it operates, shall be so designed, that it cannot, rapidly and without attracting attention, be opened, rendered ineffective, or destroyed by the use of low cost easily concealed tools, equipment or fabrications readily available to the public at large.

5.5 The protective device shall be mounted on the vehicle as an item of original equipment, (i.e. equipment installed by the vehicle manufacturer prior to first retail sale). It shall be fitted in such a way that even after removal of its housing it cannot, when in the blocked condition, be dismantled otherwise than with special tools. If it would be possible to render the protective device ineffective by the removal of screws, the screws shall, unless they are non-removable screws, be covered by parts of the blocked protective device.

5.6 The key locking system shall provide at least 1,000 different key combinations or a number equal to the total number of vehicles manufactured annually if less than 1,000. In vehicles of one type the frequency of occurrence of each combination shall be roughly 1 per 1,000.

5.7 The key and lock shall not be visibly coded.

5.8 The lock shall be so designed, constructed and fitted that turning of the lock cylinder, when in the locked position, with a torque of less than 0.25 m.kg is not possible with anything other than the mating key, and

5.8.1 For lock cylinders with pin tumblers no more than 2 identical tumblers operating in the same direction shall be positioned adjacent to each other, and in a lock there shall not be more than 60 percent identical tumblers.

5.8.2 For lock cylinders with disc tumblers no more than 2 identical tumblers operating in the same direction shall be positioned adjacent to each other, and in a lock there shall not be more than 50 percent identical tumblers.

5.9 Protective devices shall be such as to exclude any risk, while the vehicle is in motion, of accidental blockage likely to compromise safety in particular.

5.9.1 It shall not be possible to activate protective devices acting on the steering, transmission or gearshift control without first stopping the engine and then performing an action which is not an uninterrupted continuation of stopping the engine.

5.9.2 In the case of devices acting on the steering, transmission or gearshift control the action of key withdrawal shall either necessitate a minimum movement of 5 mm before activation of the device or incorporate an override facility to prevent accidental removal or partial withdrawal of the key.

5.10 Power assistance may be used only to activate the locking and/or unlocking action of the protective device. The device shall be kept in its operating position by mechanical means only.

5.11 It shall not be possible to activate the motive power of the vehicle by normal means until the protective device has been deactivated.

6. *Particular Specifications.* In addition to the general specifications prescribed in paragraph 5., the protective device shall comply with the particular conditions prescribed below:

6.1 *Protective Devices Acting on the Steering*

6.1.1 A protective device acting on the steering shall block the steering.

6.1.2 When the protective device is set to act, it shall not be possible to prevent the device from functioning.

6.1.3 The protective device must continue to meet paragraphs 5.9, 6.1.1, 6.1.2 and 6.1.4 after it has undergone 5,000 locking cycles of the wear producing test specified in annex 3 (attached).

6.1.4 The protective device shall, in its activated position, be strong enough to withstand, without damage to the steering mechanism likely to compromise safety, the application of a torque of 19.6 mdaN (20 mkgf) about the axis of the steering shaft in both directions under static conditions.

6.2 *Protective Devices Acting on the Transmission.* A protective device acting on the transmission shall prevent the rotation of the vehicle's driving wheels.

6.3 *Protective Devices Acting on the Gearshift Control.*

6.3.1 A protective device acting on the gearshift control shall be capable of preventing any change of gear.

6.3.2 In the case of manual gearboxes it must be possible to lock the gearshift lever in reverse only; in addition, locking in neutral shall be permitted.

6.3.3 In the case of automatic gearboxes provided with a "parking" position it must be possible to lock the mechanism in the parking position only; in addition, locking in neutral and/or reverse shall be permitted.

6.3.4 In the case of automatic gearboxes not provided with a "parking" position it must be possible to lock the mechanism in neutral and/or reverse.

10. *Acoustic or Visual Warning Devices Provided Additionally.*

10.1 A protective device may be additionally equipped with an acoustic or visual warning device.

10.2 If the protective device is additionally equipped with an external acoustic and/or visual warning device, the signals emitted by the warning device shall be brief and shall end automatically after not more than 30 seconds; they shall recommence only if the device is actuated again. In addition,

10.2.1 If the signal is acoustic, it may be emitted by the audible warning device normally fitted to the vehicle;

10.2.2 If the signal is visual, it shall be produced solely by flashing of the vehicle's passing lights.

10.3 If the protective system is equipped with a driver warning feature it shall be activated, unless the protective device has been activated and any key removed by the operator, when the operator opens the driver's side door.

ANNEX 3

(TO THE REGULATION)

WEAR PRODUCING TEST PROCEDURE FOR PROTECTIVE DEVICES ACTING ON THE STEERING

1. *Test Sample and Test Equipment.*

1.1 Shall consist of a fixture suitable for mounting the sample steering complete with the protective device attached;

1.2 A means for activating and deactivating the protective device;

1.3 A means for rotating the steering shaft relative to the protective device.

2. *Test Method.* One cycle of the test procedure shall consist of the following operations during which the torque on the steering shaft shall not exceed 0.575 m.kg.

2.1 *Start Position.*—The protective device shall be deactivated and the steering shaft shall be rotated to a position which prevents engagement of the protective device, unless it is of the type which permits locking in any position of the steering.

2.2 *Set to Activate.*—The protective device shall be moved from the deactivated to the activated position, using the normal means of activation, for example by turning or withdrawing the key.

2.3¹ *Activated.*—The steering shaft shall be rotated at a speed not exceeding the equivalent of 1 r.p.s. until the protective device locks the shaft.

2.4 *Deactivated.*—The protective device shall be deactivated by the normal means, where necessary the shaft shall be rotated to facilitate disengagement.

2.5¹ *Return.*—The steering shaft shall be rotated at a speed not exceeding the equivalent of 1 r.p.s. to a position which prevents engagement of the protective device.

2.6 *Opposite Rotation.*—Repeat 2.2, 2.3, 2.4, and 2.5, but in the opposite direction of rotation of the steering shaft.

[FR Doc.76-6107 Filed 3-3-76;8:45 am]

COMMUNITY SERVICES
ADMINISTRATION

[45 CFR Part 1067]

FUNDING OF COMMUNITY ACTION
PROGRAMS

CSA Procedures for the Federal Project
Notification and Review System (PNRS)

In FR Doc. 76-5782 appearing at page 8505 in the issue for Friday, February 27, 1976, make the following change; on page 8505 in the middle column, in the second paragraph change the last line to read "March 29, 1976."

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 52]

[FRL 449-4]

FLORIDA: BURNING FOR COLD OR
FROST PROTECTION

Approval and Promulgation of
Implementation Plans

On May 31, 1972 (37 FR 10842), the Administrator approved the Florida plan to attain and maintain the national ambient air quality standards in that State. The regulations of the approved plan provided, at § 17-5.06, for burning to protect citrus and other agricultural operations from frost and cold. Section 17-5.06 required that all fuels and devices used in such burning be approved by the State. Florida now proposes to revise section 17-5.06 by specifying limitations on the conditions under which burning may be used to protect agricultural operations and the types and quantities of fuels that may be thus consumed. The revised § 17-5.06 was adopted by the Florida Environmental Regulation Commission following notice and public hearing, and was submitted to the Agency's Region IV office as a proposed plan revision on Janu-

¹If the protective device permits locking in any position of the steering, steps 2.3 and 2.5 shall be omitted.

ary 14, 1976. The purpose of this notice is to describe the Florida revision and to solicit public comment on it.

The existing provisions of § 17-5.06 are left largely unaltered except that the prohibition on the burning of clean dry wood is removed. Restrictions and conditions on open burning and outdoor heating devices are added as follows.

Burning for the protection of agricultural crops (including citrus nurseries) other than citrus groves may not begin until the ambient temperature falls to 32° F or below.

Burning for the protection of citrus fruit to be marketed as fresh fruit may not begin until the ambient temperature drops to 29° F or below and can reasonably be expected to remain at or below 28° F for four hours or more.

Burning for the protection of citrus trees may not begin until the ambient temperature drops to 26° F or below and can be reasonably expected to remain at or below 24° F for four hours or more.

To prevent unnecessary air pollution and to conserve fuel, the quantity of fuel oil burned is not to exceed certain limits: 35 gallons per acre per hour at 25° F to 28° F; 50 gallons per acre per hour below 25° F; and 75 gallons per acre per hour below 20° F.

Clean dry wood may be used for open fires as a substitute for approved fuels whenever the ambient temperature falls to 26° F and is expected to remain at or below 24° F for four hours or more. Such open wood fires must be located more than 1000 yards north and 1000 yards west of any Federal highway, State road, or community of ten or more dwellings. No more than 667 pounds of wood per acre per hour may be burned at 26° F or below. Prior to undertaking such burning, the owner or operator must notify the Department of Environmental Regulation.

Generally, the use of open burning or outdoor heating devices is to be curtailed as permitted by the availability of non-polluting protection methods such as spray irrigation or wind machines.

Special provision is made in the revised regulations for the burning of normally unapproved fuels when an unusually large amount of cold weather causes shortages of approved fuels. Such burning may not be carried out when stagnant atmospheric conditions are forecast. The unapproved fuels that may be used under emergency conditions shall not include Bunker C residual oil, tires, rubber materials, asphalt, tar, railroad cross ties, other creosoted materials, or plastics.

A revised control strategy and other ancillary materials were submitted in support of the proposed revision. The State asserts that implementation of the revised regulations will not jeopardize the attainment and maintenance of the national ambient air quality standards even though wood is now to be an approved fuel under certain circumstances.

Copies of the material submitted by Florida may be examined by the public during normal business hours at the following locations:

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Florida Department of Environmental Regulation, 2562 Executive Center Circle East, Montgomery Building, Tallahassee, Florida 32301.

Interested persons are encouraged to submit written comments on the Florida plan revision. To be considered, such comments must be received on or before April 5, 1976, and should be addressed to Russell Fisher of the Agency's Region IV Air Programs Branch at the Atlanta address given above. After carefully weighing relevant comments received and all other information available to him, the Administrator will take approval/disapproval action on these changes in the Florida plan.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: February 25, 1976.

JOHN A. LITTLE,
Deputy Acting Regional Administrator, Region IV.

[FR Doc. 76-6298 Filed 3-3-76; 8:45 am]

[40 CFR Part 52]

[FRL 496-7]

STATE IMPLEMENTATION PLAN: WEST VIRGINIA

Reaffirmance of the Administrator's May 31, 1972, Approval of West Virginia Regulations II and X

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act (the Act) and 40 CFR Part 51, the Administrator approved, with specific exceptions, state plans for implementation of the national ambient air quality standards (NAAQS). Included in this approval was a plan for West Virginia adopted by the West Virginia Air Pollution Control Commission on March 15, 1972. The approval of the West Virginia State Implementation Plan (SIP) appears at 40 CFR Subpart XX, Section 52.2520 et seq. (37 FR 10901).

Subsequent to the Administrator's approval of the West Virginia SIP, Appalachian Power Company, Ohio Power Company and Duquesne Light Company (petitioners), pursuant to Section 307 of the Clean Air Act, filed petitions with the United States Court of Appeals for the Fourth Circuit on June 23, 1972, to review the approval. Specifically, the challenges concerned Regulation II (particulate matter control) and Regulation X (sulfur oxides control) of the West Virginia Plan. On April 11, 1974, the Court, responding to these challenges, rendered a preliminary decision. *Appalachian Power Company, et al. v. EPA*, 477 F.2d 495 (4th Cir. 1973). With a view toward this decision, EPA and the three utility companies agreed to a remand which was entered by the court on June 19, 1974.

The terms of the remand specified that petitioners would be given and opportunity to state orally and in writing their objections to the West Virginia SIP and support such objections with technical or factual data as they saw fit. EPA would then reassess its original approval in light of the newly augmented record and would propose its findings with respect to relevant portions of the West Virginia SIP in the FEDERAL REGISTER. Such findings would be accompanied by a technical support document setting forth the basis for the action.

This notice is in satisfaction of the remand agreement of June 19, 1974. After careful consideration of petitioners' objections, the Administrator finds that the objections are not cause for changing the approval status of Regulation II and Regulation X. The Administrator believes that approval of Regulation II and X was properly granted under Section 110 of the Clean Air Act and 40 CFR Part 51, and, by this notice, proposes to reaffirm his prior approval.

Although the technical support document supporting this notice will set forth the Administrator's response to all technical aspects of petitioners' objections, a brief statement in response to each objection appears below.

STATEMENT OF THE ADMINISTRATOR'S RESPONSE TO PETITIONERS' OBJECTIONS

I. Objection. The West Virginia SIP is Not Rationally Based Upon Ambient Air Levels.

1. Argument. Regulations II and X establish emission limitations in some Air Quality Control Regions (AQCRs) that have attained the national standards. Petitioners object to this and do not believe there is any justification for imposing emission limitations in such areas.

1. Response. Petitioners' objection may be met as follows: First, section 116 of the Clean Air Act allows States to adopt, and include within their implementation plans, emissions limitations of any degree of stringency provided that the limitations are stringent enough to attain and maintain NAAQS. *Train v. NRDC*, 421 U.S. 60, 95 S. Ct. 1470, 1479 (1975); *NRDC v. EPA*, 507 F.2d 905, 913 (9th Cir., 1974); *Indiana & Michigan Electric Co. v. EPA*, 509 F.2d 839, 844 (7th Cir., 1975) and *Appalachian Power Co. v. EPA*, 477 F.2d 495, 498 (4th Cir., 1973). The Congressional intent to not restrict States from including within their Plans emission limitations more stringent than needed to meet NAAQS was recently reaffirmed. In an amendment to Section 110, contained in the Energy Supply and Environmental Coordination Act of 1974 (ESECA), Congress directed the Administrator to study all SIPs and, where justified by air quality, to "notify the State that a plan revision (to lessen the degree of overly stringent emission limitations relating to fuel burning sources) may be submitted by the State." (Emphasis added.) If Congress desired to require the elimination of overly-stringent regulations

from SIPs, it would have instructed EPA to require revisions from the States. That it merely instructed EPA to advise States of the availability of Plan revisions argues strongly for the proposition that Congress (i) was aware of the existence of overly stringent SIP provisions and (ii) was content to allow such provisions to remain in effect where a State chose not to affirmatively respond to EPA's "notice."

Second, petitioners' objections overlook the fact that section 110 of the Act—the section which the Administrator must look to in assessing the adequacy of a Plan—states that, for a SIP to be approved by the Administrator, it must provide, *inter alia*, for the "maintenance of such primary and secondary standard." The regulations promulgated by EPA to guide the States in the preparation of SIPs and revisions thereto also require a SIP to set forth control strategies containing emission limitations that will prevent ambient pollution levels from exceeding NAAQS in AQCRs where estimated or measured ambient pollution levels are currently below the secondary NAAQS. 40 CFR § 51.12(b). (36 FR 22398, Nov. 25, 1971). This requirement that emission limitations be established to maintain the primary and secondary NAAQS is necessary because the number of pollution sources found within a particular AQCR is never conclusively fixed. EPA's review of the West Virginia SIP indicates that the developers of the SIP established emission standards in AQCRs that had attained the NAAQS so as to allow for anticipated increases in the number of pollution sources in such AQCRs.

Given the above, the Administrator has concluded that the imposition of emission limitations in West Virginia AQCRs which, in 1972, had air quality equivalent to (or better than) the primary and secondary NAAQS is not a basis for disapproval of these emission limitations as reflected in Regulations II and X.

2. Argument. The West Virginia AQCRs are not properly drawn. The petitioners claim that there should be more than ten AQCRs in West Virginia and suggest that AQCRs should be established on a county basis. Petitioners believe that this would result in the adoption of more equitable emission limitations.

2. Response. The 1970 amendments to the Clean Air Act require that AQCRs established under the 1967 amendments to the Act remain in effect under the new amendments. Accordingly, the four West Virginia interstate AQCRs established before December 31, 1970 (the effective date of the 1970 Amendments), automatically carried over for the purpose of devising the West Virginia State Implementation Plan under the 1970 Act. These AQCRs are the Steubenville-Weirton-Wheeling Interstate; the Parkersburg-Marietta Interstate; the Huntington-Ashland-Portsmouth-Ironton Interstate and the Cumberland-Keyser Interstate.

Under the 1970 Amendments, the remaining portion of West Virginia was

to be designated as an AQCR. Moreover, section 107(b) of the Act permitted the State to propose that more than one AQCR be established. After federal consultation with the appropriate State and local officials, six more intrastate AQCRs were designated. During an oral presentation on March 2, 1971, and in written material submitted to the Administrator, the West Virginia control agency suggested that the Administrator designate these six AQCRs with the boundaries that were ultimately established. In recommending these boundaries, West Virginia stressed that the location of populated areas, the existence of jurisdictional boundaries, the location of existing and planned industry, and existing topography and meteorology were considered before the recommendations were made. (These considerations also were made in establishing the four interstate AQCRs under the 1967 amendments.)

The Administrator feels that the State recommendations with respect to the establishment of the six intrastate AQCRs were rationally based. The designation of these AQCRs, together with the continuation of the four interstate AQCRs, is, therefore, not a basis for withdrawing approval of the particulate matter and sulfur oxides regulations applicable to petitioners.

3. Argument. Petitioners object to the use of the example-region approach because they believe it has resulted in overly-stringent limitations in certain areas of West Virginia. Petitioners hypothesize that a high concentration of pollutants caused by emissions from a single source could be the basis for (i) controlling emissions within an entire AQCR, and (ii) thereafter treating the AQCR in question as the example region. A localized emission problem then would be responsible for the imposition of stringent emission limitations in a large area of the State.

3. Response. The use of example regions is an appropriate method of establishing emission limitations in a SIP. 40 CFR 51.13. The West Virginia Air Pollution Control Commission only had nine months in which to develop a plan. It would have been impractical to obtain ambient monitoring data from multiple sites in every AQCR in time to set specific emission limitations for each AQCR or portion thereof. Most States, including West Virginia, had data for only the most industrialized portions of the State. Setting emission limitations based on the example-region method ensured the attainment and maintenance of standards. Accordingly, the SIP was approvable under Section 110(a)(2).

Even if petitioners' statement that the example-region approach resulted in overly-stringent regulations is correct, this is not a basis for disapproval of the plan. As stated earlier Section 116 of the Clean Air Act allows States to adopt, and include within their implementation plans, emission limitations of any degree of stringency as long as the limitations are stringent enough to attain and maintain NAAQS.

It should be noted that, on July 8, 1975, EPA proposed that the example-region

approach be repealed prospectively (40 FR 28269). The proposal reflects the fact that, in many non-example-region AQCRs, comprehensive ambient data not available in 1972 now exist and that the time restraints that had to be contended with during the period of SIP development no longer exist. However, the proposal, even if finalized, would not encroach upon the propriety of the example-region approach as employed in SIPs submitted in 1972. Moreover, it is not because the example region approach might result in excess stringency that it has been proposed for removal. Rather its repeal has been proposed because in some instances its use might not be sufficient to ensure attainment or maintenance of NAAQS. Thus the proposal simply recognizes that, in some States, regions other than the example-region are not meeting standards. In consequence of this, the proposal would require that plan revisions which reduce the stringency of emission limitations in non-example-regions AQCRs contain a specific showing that NAAQS will not be compromised in such areas.

4. Argument. The background levels used to develop the SIP are too high. Petitioners claim that the background ambient level of 28 $\mu\text{g}/\text{m}^3$ used to develop the particulate matter emission limitation of Regulation II is almost one-half of the secondary standard of 60 $\mu\text{g}/\text{m}^3$ and therefore penalizes identifiable emitters of particulates. Petitioners point out that the Federal Water Pollution Control Act does not penalize the discharger for the background concentrations of pollutants in the intake water.

4. Response. Presumably, petitioners refer to section 402 of the Federal Water Pollution Control Act (FWPCA). This section, commonly referred to as the National Pollutant Discharge Elimination System (NPDES), authorizes the Administrator to issue discharge permits to point sources of water pollution. Among other things, a permit may be issued under section 402 only if the source in question is in compliance with applicable effluent limitations issued pursuant to FWPCA section 301.

Although there is no specific requirement under either FWPCA § 301 or § 402 that point sources be given a credit for pollutants already present in the water, one court has held, on due process grounds, that such a requirement does exist. See *American Iron and Steel Institute et al v. EPA*, No. 74-1640 (3rd Cir. 1975). However, be that as it may, the point to be made is that section 301 is primarily a technology-based statutory provision unrelated (except as provided for in section 301(b)(1)(C))¹ to provisions in the FWPCA that operate roughly as a counterpart to ambient air quality standards in the Clean Air Act. (Compare FWPCA § 303 with Clean Air Act

¹ Under section 301(b)(1)(C), effluent limitations may be more stringent than provided for in section 301(b)(1)(A) where necessary to successfully implement a Federal approved water quality standard. EPA does not interpret the *American Iron and Steel Institute* decision as applying to § 301(b)(1)(C).

sections 103-110.) In other words the purpose of FWPCA § 301 is to require absolute and uniform levels of point source control, ordinarily not in relation to the water quality standards of § 303, but as an end unto itself.

By contrast, the (air pollution) regulations challenged by petitioners are designed to meet health and welfare-related ambient air quality standards. Thus, while the argument can be made that technology-based water requirements should be structured so that no one source is penalized because of naturally-occurring pollutants in its intake water, the same argument cannot be made where the target in question (i.e., an ambient air quality standard) will, by its very nature, impose obligations that will vary in relation to the pollutant content of the air. That such target may be influenced by background concentrations and may thereby require substantial, and perhaps burdensome, point source controls is admittedly one of the more onerous aspects of the national ambient air quality standard (NAAQS) approach. Nevertheless, when health and welfare is at stake and air quality must be improved to a given level, there is logistically no choice but to impose pollution limits on controllable man-made sources rather than attempt to limit naturally occurring (and, usually, uncontrollable) background sources.

Section 51.13(c) of Title 40 requires that background concentration be used in developing SIPs and directs that such concentrations are to be measured. West Virginia complied with this requirement by measuring background concentrations in relatively pristine Webster county. The only non-urban monitor in West Virginia is located in this county. Hence, the manner in which the State measured background concentrations was extremely conservative in that it understated background conditions in urban areas.

5. Argument. The use of simplified rollback calculations to determine actual emission limitation was improper.

5. Response. Particularly in 1972 when extensive ambient air quality data for all parts of West Virginia were unavailable, the use of the simplified-rollback method to develop the emission reduction needed to attain NAAQS was not arbitrary. *Texas v. EPA*, 499 F.2d 289 (5th Cir., 1974); *Kennecott Copper v. EPA*, No. 75-1335 at footnote 16 (9th Cir., Nov. 28, 1975). Moreover, contrary to petitioners' assertions, the simplified rollback model inherently accounts for topography, stack height and meteorology. This is because data influenced by such forces operate as the starting point for the rollback calculation. Furthermore, even if these things were not reflected (with the attendant consequences that the rollback computations might have resulted in some excess stringency), use of the simplified-rollback model would still be permissible under Section 116 of the Clean Air Act.

6. Argument. Petitioners claim that the annual secondary standard for sulfur oxides was invalid and that it therefore could not properly serve as a basis for

the establishment of emission limitations under Regulation X.

6. *Argument.* Petitioners claim that the secondary sulfur dioxide standard in effect when West Virginia developed its Regulation X was revoked by EPA on September 14, 1973. (38 FR 25678). However, West Virginia, at the time of the Administrator's approval, had its own equally demanding ambient standards for sulfur oxides (Regulation VIII). Regulation X was established so as to ensure the attainment of the State ambient standards. Therefore, the revocation of the national annual secondary sulfur oxides standard does not affect West Virginia's authority to establish an emission limitation for the control of sulfur oxides. Moreover, even if Regulation X establishes limitations more stringent than required to meet extant federal sulfur oxides ambient standards, Section 116 of the Clean Air Act precludes the Administrator from disapproving these limitations.

West Virginia is currently studying its secondary standard sulfur oxides strategy. The State has revised its secondary ambient air quality standard and is considering revisions to the emissions limitations comprising the secondary standard sulfur oxides control strategy. It is noteworthy that at a public hearing on the proposed change to Regulation VIII, counsel representing petitioners Appalachian Power and Ohio Power commended the West Virginia Air Pollution Control Commission for its proposal to amend Regulation VIII.

The Administrator believes that such assessment at the State level is the proper forum for any adjustment to Regulations VIII and X. The recent decisions in *Train v. NRDC*, 421 U.S. 60 (1975) and *Buckeye Power, et al. v. EPA*, Nos. 72-1513, 74-1521, 74-1539, and 74-1560 (6th Cir., Nov. 14, 1975) emphasize this view. In discussing the fact that the Ohio EPA is presently studying revisions to the Ohio regulations, the *Buckeye* court stated:

[T]he disputes which petitioners seek to have this court resolve are being worked out at the state level where the EPA statute, as construed by the Supreme Court, clearly contemplates they should be. Slip opinion at 4.

II. *Objection.* Achievement of the West Virginia Sulfur Dioxide Emission Limitation (regulation X) is not feasible.

1. *Argument.* Regulation X is economically and technologically infeasible. Petitioners claim that there are no methods available which would enable them to comply with the Regulation X requirements. Petitioners dismiss compliance by the use of flue gas desulfurization (FGD) to scrub the sulfur oxides from the emissions from their coal-fired power plants because they allege that FGD is technically unavailable, extremely costly, incapable of being commercially installed within the time allowed by Regulation X and causes water pollution and land use problems. Petitioners further state that the use of coal with sulfur content low enough to meet the

emission limitation also presents difficulties. Relative to the use of low sulfur coal to comply with Regulation X, petitioners claim that the time limits set forth in Regulation X could not have been met, the use of low sulfur coal is extremely costly, and use of such coal will disrupt national coal supplies.

1. *Response.* There are three actively employed methods of compliance available to coal burning sources subject to sulfur oxides regulations. A source may burn sufficiently low sulfur content coal so as to ensure that resultant emissions are within the limits established by an emissions regulation. A source may treat or "wash" the coal prior to burning to remove sulfur, thereby lowering the sulfur level to that of low sulfur coal. Finally, a source may scrub (using an FGD) sulfur oxides from the stack gases resulting from combustion of high sulfur content coal.

The West Virginia SIP does not impose a specified method of compliance. In fact, West Virginia Code section 16-20-5(4) prohibits the West Virginia Air Pollution Control Commission from specifying a method of pollution control to be used on a particular facility. Each source subject to Regulation X is free to choose any pollution abatement technique which will enable the source to comply with the applicable emission limitation.

Petitioners have apparently elected to use low sulfur coal. On page 33 of the written objections to the SIP, petitioners state that "compliance through the use of low sulfur coal is ultimately possible." Similar statements were made in another SIP-related proceeding involving a request by the Governor of West Virginia for a one-year extension of the final compliance date (June 30, 1975) for some of the petitioners' power plants. This request was made and the subsequent proceeding was held pursuant to Section 110(f) of the Clean Air Act. Accordingly, while the Administrator disagrees with petitioners' position that FGD is not commercially available, the Administrator is proceeding on the assumption that use of low sulfur coal is the method of compliance which petitioners have elected. Therefore, this response will be limited to the question whether timely compliance by use of low sulfur coal would have been possible had petitioners attempted to comply with Regulation X in an expeditious and earnest manner.

Petitioners first contention is that a sufficient supply of low sulfur coal could not have been obtained within the time limits set forth in Regulation X. The Regulation requires compliance by June 30, 1975.

In status reports for the first quarter of 1975 on file with the West Virginia control agency, petitioner Appalachian Power reports that its John Amos, Kanawha River, Cabin Creek and Phillip Sporn plants are complying with Regulation X through the burning of low sulfur coal. Although petitioner Ohio Power's Kammer and Mitchell plants presently are not in compliance, the time

period for their compliance with Regulation X has been extended for one year. This extension was granted by the Administrator on April 29, 1975, pursuant to the aforementioned section 110(f) proceeding—a statutory vehicle that (i) existed as a possible means of temporal relief at the time the SIP was approved and (ii) was intended to remedy time/feasibility problems such as those raised by petitioners. (Although parts of the section 110(f) extension decision are being appealed to the United States Court of Appeals for the Fourth Circuit by petitioners Appalachian Power and Ohio Power, the one year extension of time granted to Kammer and Mitchell for compliance with Regulation X was not challenged).

With regard to the latter two plants, the first quarter 1975 status reports for these plants indicate they will comply with Regulation X by June 30, 1976. Hence, regardless of petitioners' claims, their status reports show that, at the time of the Administrator's approval, Regulation X could have been met within the time periods set forth in the Regulation as extended by the previously described section 110(f) postponement. Accordingly, the Administrator does not find grounds in petitioners' time-based objection for the disapproval of Regulation X.

Petitioners' fear that compliance by low sulfur coal will adversely affect the national supply of low sulfur coal is unfounded. Information available to the Administrator indicates that coal demand in the first half of the present decade has not reached earlier predicted levels. Economic slowdown and conservation efforts by the public have reduced the quantity of coal being diverted to steel production and have reduced the amount of coal being burned for electrical generation. As evidenced by the technical support document, this was particularly true of low sulfur coal mined in areas of the East that have traditionally supplied petitioners' plants with coal. In addition, the long term effect of petitioners' use of conforming coal will be minimal because increased demand by petitioners, as well as other coal users, will result in the development of additional coal supplies. (Data in the technical support document indicate that petitioners' requirements for low sulfur coal are such that the withdrawal of this coal from the estimated mineable reserves of West Virginia and its bordering States will have a negligible effect on these reserves.) In short, absent a shortage of unmined low sulfur coal—an assertion which the Administrator does not believe petitioners are making—the supply of low sulfur coal will expand to meet demand.

Petitioners also claim that the use of low sulfur coal producers a serious, adverse economic impact. As stated above, petitioners' power plants have been or soon will be using low sulfur coal to achieve compliance with Regulation X. Appalachian Power and Ohio Power are not experiencing insurmountable economic problems due to the use of this

coal. The Administrator is unaware of any damaging interruption of service in petitioners' service areas caused by a lack of building capital or operating funds attributable to the purchase or development of low sulfur coal supplies. Thus, the Administrator believes that expenditures to comply with Regulation X are financially acceptable if petitioners' management gives these expenditures the priority the Clean Air Act requires.

Moreover, the increased cost incurred because of the use of low sulfur coal may be included in the companies' rate base if the appropriate West Virginia Public Service Commission procedures are followed. West Virginia utility customers presently are paying a kilowatt charge which takes into account fuel costs being incurred by West Virginia utilities.

2. *Argument.* It is asserted that compliance with ambient standards can be achieved by methods which disperse pollutants. Accordingly, petitioners contend that they should be allowed to use tall stacks and intermittent control systems (ICS) in lieu of the kind of non-dispersive methods (e.g., low sulfur coal) that must otherwise be employed to meet a fixed emission reduction provision such as Regulation X.

2. *Response.* The Administrator interprets the Clean Air Act as requiring constant, non-dispersive emission reduction methods (e.g., FGD, or washed or conforming fuel) to be used to the maximum extent achievable before tall stacks and ICS may be used as a means of achieving ambient standards. The Administrator's position has been upheld by three United States Courts of Appeals—*NRDC v. EPA*, 489 F.2d 390 (5th Cir., 1974); *Big Rivers Electric Company et al. v. EPA*, 523 F.2d 16 (CA 6, 1975) and *Kennecott Copper Corp. v. Train*, No. 75-1335 (9th Cir., 1975). Thus, only if it could be shown that petitioners' low sulfur coal program (when coupled with other forms of available constant controls such as FGD equipment) will not achieve compliance with Regulation X (and, therefore, ambient standards), could dispersion techniques such as tall stacks and ICS be used to achieve the residual level of control necessitated by the standards. In petitioners' case it is extremely unlikely that this would be the case since petitioners' facilities now are or soon will be complying with Regulation X through the use of low sulfur coal.

III. *Objection.* The West Virginia Particulate Matter Emission Limitation (Regulation II) is not feasible.

1. *Argument.* Petitioners claim that the Regulation II emission limitation applicable to its power plants is twice as stringent as the Federal New Source Performance Standard (NSPS) for coal-fired boilers. Because the NSPS is based on so-called "best available control technology," petitioners maintain that the Regulation II limitation of 0.05 lb. particulate matter/million BTU per hour is not achievable. (The NSPS limitation is 0.1 lb. particulate matter/million BTU per hour.)

1. *Response.* It is inappropriate to compare a SIP requirement with a new source performance standard for the pollutant in question. The power plant new source performance standard for particulate matter is a national requirement that considers best available control technology and cost from a national perspective. This standard is not related to attainment of NAAQS within a given State or AQCR. On the other hand, SIP limitations such as Regulation II are designed to attain and maintain NAAQS or more stringent State ambient standards.²

In any event, the Regulation II emission limitation is being achieved at various power plants in the country. In recent tests, three steam generating units operated by the Tennessee Valley Authority and six units operated by Carolina Power and Light had measured particulate levels below 0.05 lb. particulate matter/million BTU per hour. In West Virginia, VEPCO's Mt. Storm unit #2 and Monongahela Power's Ft. Martin unit #2 and Rivesville unit #7 have been tested to show compliance with Regulation II. A February 1974, source test indicates that petitioner Appalachian Power's John Amos unit #3 was complying with Regulation II. The emissions from this plant were 0.043 lb. particulate matter/million BTU per hour. Petitioners' Glen Lyn station in Virginia also has a unit which has been shown to emit less than 0.05 lb. particulate matter/million BTU per hour. These test results show that the Regulation II emission limitation can be met by petitioners' power plants in West Virginia.

2. *Argument.* Regulation II does not allow stack gas streams to be treated with SO₂ injection. Petitioners object to this prohibition in Regulation II because it is claimed that so-called stack gas conditioning improves the efficiency of particulate matter control equipment.

2. *Response.* The petitioners' objection to Regulation II's prohibition of stack gas conditioning is now moot. On November 10, 1975, the Administrator approved a revision to the West Virginia SIP that allows the use of stack gas conditioning to improve the efficiency of particulate control equipment. 40 CFR 52373. This amendment is applicable to the power plants which were in operation on September 1, 1974. All of petitioners' plants were operating on this date.

3. *Argument.* Petitioners allege in their objections that installation of control technology to achieve the emission limitation in Regulation II is very costly and that the increased cost incurred in achieving the Regulation II requirement, instead of a requirement comparable to the NSPS for coal-fired boilers, is substantial and unreasonable.

As noted above, it is inappropriate to compare the cost of compliance with a SIP requirement with that of attaining

² As noted earlier, where, as a consequence of a more stringent State standard, a regulation such as Regulation II results in more stringent control than is necessary to meet NAAQS, such stringency is permitted by § 116.

a NSPS limitation. Moreover, petitioners now are proceeding with State compliance plans for the control of particulate emissions by the installation of control equipment. The Administrator finds no indication that petitioners' operating systems are presently experiencing financial difficulties so severe that the reliability of the service provided to their West Virginia customers is now or likely to be impaired. In addition, due to the recent repeal of the stack gas conditioning provisions, the Regulation II emission limitation is now probably less costly than that claimed by petitioners in their objections. Thus, the Administrator feels that the financial commitment required is not as great as petitioners once believed and that the commitment, whatever its nature, can be borne by the companies, if they place the priority upon compliance with Regulation II which the Clean Air Act requires. Finally much of the expense may well be incorporable in petitioners' rate base.

4. *Argument.* Petitioners object to Regulation II because they claim there was not enough time before June 30, 1975, within which to comply with the regulation.

4. *Response.* Regulation II was adopted as State law on March 15, 1972. For federal purposes, the regulation became a SIP provision on May 30, 1972, when EPA approved the State's implementation plan. Although, as will be pointed out in the next paragraph, sources not immediately in compliance with Regulation II were, as a matter of State law, in violation of the Plan, the Plan did recognize that many existing sources could not comply immediately with Regulation II's emission limitation. Hence, the West Virginia Plan included a provision in Regulation II whereby a schedule to comply with an applicable emission limitation (by a date certain) could be issued to certain classes of sources by the West Virginia Air Pollution Control Commission.

A critical key in determining whether Regulation II could have been complied with on or before the Clean Air Act's compliance deadline of June 30, 1975, is that of ascertaining when the obligation to comply attached to sources subject to the Regulation. Sections 3.01(a) and 11^a of Regulation II, read together, indicate that the obligation to limit emissions attached, as a matter of State law, on March 15, 1972. This follows from the fact that, although sources were permit-

^a These regulations read, in pertinent part: Section 3. *Weight Emission Standards.*

3.01. (a) No person shall cause, suffer, allow, or permit the discharge of particulate matter into the open air from all fuel burning units located at one plant, measured in terms of pounds per hour in excess of the amount determined as follows:

Section 11. *Effective Date.*
Regulation II (1972) shall become effective March 15, 1972, and shall supersede Regulation II (1966) which was adopted by the West Virginia Air Pollution Control Commission on the 17th day of February, 1966, and became effective April 4, 1966, and was filed with the Secretary of State February 28, 1966.

ted to seek variances (in the form of compliance schedules) from the immediately effective terms of Regulation II, until such schedules (with their mid-1975 compliance dates) were obtained from the State, such sources were in violation of Regulation II's immediately effective requirements. Section 8.01 of the regulation supports this by stating that "once (a compliance) program has been approved by the (West Virginia Air Pollution Conservation) Commission, the owner and/or operator of (the) installation for which the program was approved shall not be in violation of this regulation." (Emphasis added.) Thus Regulation II provided a period of 39½ months (from March 25, 1972 to June 30, 1975) for compliance.

Thirty nine and one-half months was sufficient time to design and install control equipment to comply with Regulation II. In the proceeding initiated under Section 110(f) of the Clean Air Act and referred to above, John Barton of American Electric Power, the parent company to petitioners Appalachian Power and Ohio Power, stated that the design and installation of an electrostatic precipitator (ESP) to achieve Regulation II's emission limitation would take approximately 37 months. An EPA contractor, in the same proceeding, estimated ESP design and installation to be 30 months. The presently applicable State compliance schedules for petitioners' plants, which Appalachian and Ohio Power have agreed to, run for approximately 36 months. (The actual range is 30½-39½ months.)

Even if the SIP approval date, May 30, 1972, is taken as the date the obligation to comply attached, Regulation II provided ample time within which to comply. Using May 30, 1975, sources in West Virginia had 37 months (May 30, 1972 to June 30, 1975) in which to design and build control equipment. Both Mr. Barton's and the EPA contractor's time estimates are equal to or less than 37 months.

Finally, it should be noted that the June 30, 1975, compliance date could have been postponed if the requirements of Section 110(f) of the Clean Air Act are satisfied. In fact, petitioners Appalachian Power and Ohio Power did seek such an extension for compliance with Regulation II, although for reasons not relevant to this proceeding some of petitioners' plants did not get the extension. Nevertheless, where bona fide need existed (as defined in section 110(f)), the compliance period available to petitioners could have been approximately 50 months if petitioners had satisfied the statutory requirements. The Administrator finds that this period was more than sufficient to design and install needed ESPs capable of ensuring compliance with Regulation II's emission limitation and that his action in approving regulation II was correct.

Copies of the West Virginia SIP are available for public inspection during normal business hours at the Environmental Protection Agency, Wheeling Field Office, 303 Methodist Building, 11th and Chapline Streets, Wheeling, West

Virginia, 26003; Environmental Protection Agency, Region III, 6th and Walnut Streets, Room 206, Philadelphia, Pennsylvania 19106; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of the Technical Support Document accompanying this proposed action also will be available at these locations in the near future. The availability of this document will be announced in a future FEDERAL REGISTER. Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the address below. Relevant comments received within 60 days of publication of the notice announcing the availability of the technical support document will be considered and acknowledged. This extended comment period is being allowed to ensure interested persons an adequate opportunity to review the Technical Support Document before the close of the comment period. Comments received will be available at the EPA Public Information Reference Unit during normal business hours. All comments should be addressed to: Norman W. Spindel, EN-341, Division of Stationary Source Enforcement, Room 3202-Q, Waterside Mall, 401 M Street, SW. Washington, D.C. 20460.

Dated: February 27, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-6301 Filed 3-3-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

ADJUSTMENTS TO DOMESTIC CRUDE OIL PRICES; SECOND STAGE OF IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

Proposed Rulemaking and Public Hearing

I. Introduction.

A. Purpose. On February 1, 1976, the Federal Energy Administration ("FEA") adopted new domestic crude oil price regulations (41 FR 4931, February 3, 1976) to implement the first stage of the crude oil pricing policy of the Energy Policy and Conservation Act ("EPCA," Pub. L. 94-163). The new regulations establish a two-tier domestic crude oil price system (with lower tier prices estimated to average approximately \$5.25 per barrel and upper tier prices estimated to average approximately \$11.28 per barrel). With approximately 60 percent of domestic production estimated to be sold at the lower tier price, this two-tier pricing system is designed to result in a maximum weighted average first sale price ("composite price") of \$7.66 per barrel in February, 1976, which is the first month of the 40-month crude oil pricing program provided for by the EPCA.

The purpose of this notice is to propose amendments to implement the second stage of the crude oil pricing policy of the EPCA by providing for upward adjustments in the composite price, be-

ginning in March 1976, to take into account the effects of inflation and to provide additional production incentives. Pursuant to section 401 of the EPCA, which adds a new section 8 to the Emergency Petroleum Allocation Act of 1973 ("EPAA"), such upward adjustments in the composite price are limited to not more than 10 percent annually.

A proceeding to implement the third stage of the crude oil pricing policy of the EPCA will be initiated in March 1976, and will be designed to consider whether additional incentives, beyond the adjustments adopted in this second stage proceeding, are needed with respect to any categories of crude oil and whether an amendment to provide such additional incentives should be adopted. Such an amendment would then be submitted to Congress pursuant to the review procedures which are established by section 551 of the EPCA for composite price adjustments in excess of the 10 percent limitation.

It is FEA's intention in administering the 40-month crude oil price control program established by the EPCA to provide as early as possible the maximum degree of certainty as to prices over the course of the program. Accordingly, this proceeding is being conducted with a view toward promulgation of final regulations providing for inflation and production-incentive price adjustments pursuant to the EPCA, to be effective for 39 months, beginning with the month of March, 1976. Prices for the 39-month period can, of course, only be projected at this time, because there are a significant number of variables that could affect actual prices. However, adjustments to prices which are projected pursuant to the regulations adopted in this proceeding would generally be made by FEA by publishing notices of the revised prices for the remaining months of the program which result from the application of such regulations to the relevant data, as it is monitored over the course of the program. Such revised price notices would be issued without the need for any further rulemaking proceedings (except with respect to certain further amendments to the composite price regulations which must be submitted to Congress in accordance with the provisions of section 551 of the EPCA before becoming effective).

It should be noted that it has not been possible due to the complexity of this rulemaking proceeding for FEA to issue this notice of proposed rulemaking in time for the final amendment (which will provide for upward adjustments in the composite price beginning in March 1976) to be issued prior to March 1, 1976. That amendment is, however, expressly proposed to be effective as of March 1, 1976 so that all first sales of domestic crude oil during March will be subject to the adjusted prices for that month which are to be adopted in this proceeding. Since billings for first sales of crude oil are typically not rendered until after the close of each month, the issuance of the final amendment in this proceeding after March 1, 1976, but before

March 31, 1976, should not result in any undue administrative problems.

B. Summary of Statutory Provisions for Price Adjustments. The adjustments to the composite price to take into account inflation and as a production incentive are provided for in section 8(d) of the EPAA, which provides as follows:

(d) (1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a), such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and (B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

(2) As used in this subsection, the term "adjusted GNP deflator" means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modifications as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

(3) The adjustment as a production incentive referred to in paragraph (1) (B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

(C) sustaining production from marginal wells, including production from stripper wells.

In sum, the foregoing section 8(d) permits the \$7.66 per barrel composite price for domestic crude oil established under section 8(a) of the amended EPAA to be increased initially by not more than 10 percent per year (compounded annually) to take into account the impact of inflation and to provide a production incentive. The increase in the composite price resulting from the production incentive adjustment is limited to a maximum of 3 percent per year,

and such an adjustment may be implemented only after certain findings are made as to the likelihood that the adjustment will provide "positive incentive" for one or more of certain categories of domestic production. The increase in the composite price resulting from application of the inflation adjustment is limited by the current GNP deflator index (adjusted to exclude any direct impact on that index of price increases in imported crude oil which occur after December 22, 1975 as a result of concerted action of petroleum exporting countries) and is further limited by the overall 10 percent annual limitation on the combined effect of the inflation adjustment and production incentive adjustment.

Section 8(c) of the amended EPAA requires a review of actual first sale prices of domestic crude oil at least every six months, in order to determine the extent to which the actual weighted average first sale price exceeded or was less than the statutory composite price as may be adjusted pursuant to section 8(d). If it is found that the FEA price regulations "resulted in" an actual weighted average first sale price in excess of the adjusted statutory composite price, compensating price adjustments are required to offset the excess. If the price regulations "resulted in" an actual weighted average first sale price less than the adjusted statutory composite price, compensating price adjustments may be permitted by FEA to offset the deficiency. According to the Conference Report on the EPCA, if a price deficiency occurs solely because of overall market conditions and competition (such as might result from a break in world market prices), such deficiency would be deemed to have "resulted" from the price regulations. On the other hand, if FEA establishes a ceiling price for a particular classification of crude oil above the market clearing price, the Conference Report contemplates that the market clearing price will be used as the price which "results" from the price regulations, for the purpose of testing compliance with the adjusted statutory composite price. Conf. Rep. No. 94-516, 94th Cong., 1st Sess. 193 (1975).

Section 8(e) of the amended EPAA provides that an amendment permitting increases in the composite price exceeding either the 3 percent limitation or the overall 10 percent limitation, or both, may be adopted, but must be submitted to Congress before being made effective. Such an amendment may not become effective if disapproved by either House under the review procedures of section 551 of the EPCA. Not more than one such proposal may be submitted every 90 days, and the first such amendment may not be submitted until May 1, 1976. As noted above, amendments to provide for price adjustments in excess of the 3 and 10 percent limitations will be the subject of a proposed rulemaking in the third stage of implementation of the EPCA crude oil pricing provisions, to be initiated in March, following completion of this rulemaking proceeding.

Continuation of the 3 percent adjustment in the composite price as a production incentive beyond February 1977 is, pursuant to section 8(f) of the amended EPAA, subject to disapproval by either house of Congress.

Finally, pursuant to section 8(g) of the amended EPAA, up to 2 million barrels per day of crude oil transported through the trans-Alaska pipeline ("Alaskan crude oil") may, by amendment to the regulations in April 1977, or thereafter, be excluded from the composite price requirements of section 8(a) if the prices for such additional volumes of Alaskan crude oil would, under the composite price limitations, have the effect of reducing the prices for crude oil produced in the remainder of the United States to levels that would result in less production. Such an amendment to exclude Alaskan crude oil production from the composite price limitation of section 8(a) is, however, subject to disapproval by either house of Congress pursuant to the provisions of section 551 of the EPCA.

II. Proposed Amendments

A. Variables Affecting the Composite Price. The composite price for domestic crude oil that actually results from first sales in a particular month will be a function of a significant number of variables. For example, upper tier and lower tier crude oil prices are determined by reference to historical price postings for particular grades and qualities of crude oil, so that price differentials for quality are maintained. The actual weighted average lower tier and weighted average upper tier prices will therefore vary from month to month as a function of the mix of various grades and qualities of crude oil actually produced and sold in that month. Another variable, over the course of the 40-month program, will be the quarterly changes in the GNP deflator index (to the extent that the GNP deflator shows an annual rate of inflation of less than the 7 percent maximum rate permitted to be used under the EPCA). Also affecting the composite price in a significant manner over the 40-month program will be whether either house of Congress disapproves amendments with respect to continuation or modification of the 3 percent production incentive adjustment, with respect to further adjustments in that composite price, or with respect to the exclusion of Alaskan crude oil.

There are, however, three principal variables affecting the composite price which are the subject of this proceeding. These are the percentage of total domestic crude oil production which is required to be sold at lower tier prices, the lower tier price, and the upper tier price. In other words, the composite price in each of the next 39 months, as projected at this time, will be principally a function of the amount of lower tier crude oil as a percentage of total domestic production, and of the rate at which the lower tier and upper tier prices are permitted to increase.

Although exact data upon which to base a projection of the likely rate of

decline in lower tier crude oil are not available, FEA's analysis of available data indicates that if no change is made in the regulations effective February 1, 1976, with respect to the determination of the amount of lower tier oil, a decline in the production of lower tier crude oil at a rate of approximately 8 percent annually can reasonably be expected over the next three years. (For further detail concerning this analysis, interested persons may obtain a copy of an FEA technical report entitled "An Examination of Alternative Crude Oil Pricing Structures" by writing FEA, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies may also be obtained at the FEA Press Room, Room 3138, 1200 Pennsylvania Avenue, N.W., Washington, D.C.).

Current domestic crude oil production, under the price regulations effective February 1, 1976, is estimated to be 5.0 million barrels per day (MMB/D) lower tier and 3.3 MMB/D upper tier, or 60 percent lower tier and 40 percent upper tier. Of the upper tier production approximately 1.0 MMB/D is estimated to be stripper well production.

Under the revised base production control level (BPCL) established beginning February 1, 1976, production from a property that is less than the 1975 production of "old" crude oil from that property will generally be required to be priced at the lower tier, while production in excess of that amount may be priced at the upper tier. Since production of "old" crude oil (i.e., crude oil required to be sold at prices averaging approximately \$5.25 per barrel) averaged about 5.0 MMB/D in 1975, not more than 5.0 MMB/D of lower tier crude oil will be produced under the revised crude oil price regulations.

However, the amount of lower tier crude oil will inevitably decline as production from properties producing lower tier (or "old" crude oil) experience natural rates of production decline. As discussed in the report cited above, an analysis of the major producing fields/reservoirs in California, Louisiana, and Texas, which accounted for 37 percent of 1974 domestic production, indicates a weighted average decline rate, after peak primary or waterflood recovery production, of 10.8 percent annually due to natural forces.

The natural rate of production decline is not, however, the exclusive determining factor with respect to the likely decline in lower tier crude oil production. That rate is further affected by the fact that the natural rate of production decline for properties producing both upper tier and lower tier crude oil does not reduce the amount of lower tier production from such properties until total production from a property drops below the BPCL, and that property therefore no longer produces any upper tier crude oil.

FEA's analysis of the fields/reservoirs referred to above indicates that approximately 1.24 MMB/D of lower tier crude oil production is currently produced from

properties that also produce upper tier crude oil, and that over a period of 3 years, a total of approximately 50 percent of the properties accounting for that production will be affected by natural rates of decline to the extent that upper tier crude oil will no longer be produced from those properties. As that point is reached, the natural decline rate will begin to affect the quantities of lower tier crude oil being produced from the properties concerned.

Secondly, a certain volume of lower tier crude oil is reclassified each year as stripper well lease crude oil, which may be sold at upper tier prices. Pursuant to FEA regulations, such lower tier crude oil will be reclassified each year as stripper well lease crude oil for all properties that produced lower tier crude oil in the preceding calendar year, but whose average daily production of crude oil per well did not exceed 10 barrels per day in that preceding calendar year. FEA estimates that approximately 50,000 barrels per day of lower tier crude oil production will qualify as stripper well lease crude oil, eligible to be sold at upper tier prices, in each of the next 3 years.

The combined effect of these two factors on the projected decline rate for lower tier crude oil production is to reduce that rate from the average natural decline rate of 10.8 percent annually to a projected rate of 9.2 percent in the first year, 9.7 percent in the second year, and 10.0 percent in the third year.

A final factor affecting the rate of decline in lower tier crude oil production is the extent to which producers take effective measures to increase production (or to reduce the rate of decline) through enhanced recovery or improved field development. Since the impact of such actions will depend in significant measure on the extent to which producers have responded in the past and respond in the future to the incentives which are or will be provided under the price regulations, any projection of net effects is somewhat speculative. However, it is FEA's preliminary opinion that the impact of enhanced recovery or improved field development on properties producing lower tier crude oil, assuming the BPCL continues to be defined as the average 1975 monthly old oil production, will be to reduce the lower tier crude oil production decline rate over each of the next 3 years to approximately 8 percent per year.

Accordingly, for purposes of analyzing the impact on the composite price of various adjustments to the lower and upper tier ceiling prices, a decline rate of 8 percent in lower tier crude oil production is used. It should be noted, however, that if a change in the definition of the BPCL is adopted as proposed below, the effect could be to increase this decline rate.

The total volume of domestic crude oil production, of which the lower tier crude oil production will be a percentage, has been estimated by FEA to be 8.3 MMB/D in the first year, 8.05 MMB/D in the second year, and 8.15 MMB/D in the third year of the 40-month program.

These estimates do not include Alaskan crude oil production, and are based on "short-run" supply projections calculated by FEA. Alaskan crude oil production, according to latest FEA estimates, is expected to be approximately 1.2 MMB/D at the beginning of 1978 and 1.37 MMB/D at the beginning of 1979.

B. Application of Price Adjustments. As noted in the introduction, the principal purpose of this proceeding is to adopt the method to be used, for 39 months of the 40-month crude oil price control program, in applying the adjustments to the composite price of crude oil which are permitted by section 8 of the EPAA to take into account the effects of inflation and as a production incentive. As also noted in the introduction, it is FEA's intention in this regard to provide at the outset the maximum degree of certainty as to prices over the course of this 40-month program, and thereafter to make only those adjustments in prices that are necessary to take into account the actual GNP deflator indices, as they are published, to compensate for the extent to which actual first sale prices exceed or fall short of the composite price limitations, and to implement whatever further adjustments to the composite price may be permitted pursuant to amendments subject to Congressional review.

FEA's analysis cannot predict with any degree of certainty the magnitude of the impact on production of the application of these adjustments over the relatively short time of the 39 remaining months of the crude oil price control program, because of the long lead times typically associated with developing new production and with enhancing existing production.

Accordingly, FEA is proposing two alternative methods for applying to domestic crude oil prices as much of an adjustment for inflation as may be available. Due to the natural production decline rate of old oil and the amount of new crude oil production predicted to occur during the remaining 39 months of the crude oil price control program, it will be necessary under either of these alternatives to use most or all of the permitted adjustment to the composite price as a production incentive (plus in certain cases a portion of the permitted adjustment for inflation) solely to account for increases in the composite price resulting from reductions in the percentage of production sold at the lower tier price.

Under the first alternative, FEA proposes to apply the amount of the available price adjustment equally to the upper and lower tier crude oil ceiling prices. Such upward adjustments in both lower and upper tier prices appear to be justified to minimize the effects of inflation on production from both tiers. This would insure, insofar as possible under the constraints of the composite price, that current returns on new or incremental crude oil production are maintained as closely as possible to today's level, in real dollars, so that existing incentives to develop new crude oil production may be maintained; and that

current returns on "old" crude oil are similarly maintained as closely as possible to today's level, in real dollars, so that existing production can also be maintained.

This proposal would, of course, allow the price of old crude oil to rise. Section 8(b) of the amended EPAA provides that "no amendment" to the price regulations may permit "an increase in the price for any volume of old crude oil production" from any properties, unless findings are made that the amendment—

(A) will give positive incentives for (1) enhanced recovery techniques, or (2) deep horizon development, from such properties; or

(B) is necessary to take into account declining production from such properties; and

(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

FEA believes that the overall effect of failure to maintain "old" crude oil price levels in constant dollars may be to discourage use of enhanced recovery techniques and reduce the overall level of production from properties producing "old" crude oil below what would occur if the price of old crude oil were increased. FEA further believes that maintenance of "old" crude oil price levels in constant dollars may also be justified on the ground that erosion of real prices, coupled with declining production levels and increases in certain fixed costs, may result in such diminished returns to producers of "old" crude oil as to discourage investment in the normal maintenance and well work-over programs necessary to continue old oil production. Data and comment are requested as to whether the necessary findings can be made to support such a price increase for old oil reflecting an adjustment for inflation.

Under the second alternative, FEA proposes to apply the total amount of the available price adjustment only to upper tier price levels. Although this would result in a deterioration of lower tier price levels in constant dollars, it would maintain and increase upper tier price levels. Under the view that the production incentive afforded by attractive upper tier price levels is the most important incentive which FEA can offer for increased production of domestic crude oil, the advantages of this alternative may outweigh the disadvantages associated with erosion of lower tier prices in real dollars. Comment on the proposal to apply the inflation adjustment to the upper tier only, or on any method of apportioning the adjustment between the lower tier and upper tier, is also requested.

The prices which would result for upper tier and lower tier crude oil over the 40-month program, under the two alternate proposals of applying the permitted price adjustments discussed above, have been projected for purposes of this rulemaking and are set forth in the Appendix to this rulemaking. FEA requests that persons commenting in this rulemaking proceeding review the projected figures in the Appendix and

address their comments to which of the two proposed methods (or any other method) of applying the inflation adjustment is best suited to maximize domestic crude oil production.

To simplify analysis for purposes of making the projections set forth in the different cases in the Appendix to this rulemaking, it is assumed for the "base case," that: (1) the 3 percent adjustment in the composite price which is permitted as a production incentive will be computed for the entire 40 months of the program; (2) Alaskan crude oil will be excluded from the composite price limitation; (3) the GNP deflator index will indicate an annual rate of inflation at 7 percent or greater for the entire 40 months of the program; (4) lower tier crude oil production will decline at an annual rate of 8 percent; and (5) total domestic crude oil production, exclusive of Alaskan crude oil production, will average 8.3 MMB/D in the first year of the program, 8.05 MMB/D in the second, and 8.15 MMB/D in the third.

Variances from these assumptions would, of course, affect these projections, in some cases significantly. Accordingly, alternative projections have been made to indicate the effect of congressional disapproval of continuing the 3 percent adjustment as a production incentive beyond February 1977; of congressional disapproval of the exclusion of Alaskan crude oil production; or of both.

In the base case, the overall statutory limitation on the composite price, on a yearly basis, is as follows (see Table 1 in the Appendix):

Month:	Price ¹
February 1976 (1st mo)-----	\$7.66
February 1977 (13th mo)-----	8.44
February 1978 (25th mo)-----	9.26
February 1979 (37th mo)-----	10.27
May 1979 (40th mo)-----	10.54

¹ Figures do not exactly total 10 percent added each year, due primarily to computation method used (see note to Case A.1 in Appendix).

² If Alaskan crude oil is priced so that it sells at world price levels, the average price of all domestic crude oil at the 40th month will be an estimated \$11.02. An earlier FEA estimate of \$11.39 for the average price of all domestic production by the 40th month was based upon time/rate projections respecting development of Alaskan production which have now been modified due primarily to further delays in pipeline construction, and upon estimates of future world price levels which have also been modified in recent months.

The impact of the decline in the percentage of lower tier crude oil production can, as noted above, only be estimated at this time. Although amendments to the BPCL definition are proposed in this proceeding which are designed to provide incentives to increase total domestic production and which may thereby increase that decline rate, the principal issue in this proceeding is to determine the method for allocating the amount of the adjustment which is available for application to the upper and lower tier prices, or to the upper tier prices only, after the increase in the composite price resulting

from the projected shift in the percentage of lower crude oil production has been taken into account.

The impact of FEA's first alternative proposal (equal application of the available price adjustment to upper and lower price tiers) is shown in Cases A.1-A.5 in the Appendix. As shown in Case A.1, in the early months of the 40-month program a 7 percent adjustment for inflation may be applied to both upper tier and lower tier prices, within the composite price constraint. During this period, the upper and lower tier prices could be adjusted at more than the rate of inflation, to the extent permitted by the overall composite price constraint, in order to use fully the production incentive adjustment. If this approach is adopted, the findings required in connection with an increase in the price of old crude oil, discussed above, and the findings required in connection with price adjustments as a production incentive, which are discussed in the next section, must be made. FEA requests comments as to whether such findings with respect to the production incentive adjustment can be made if it is used to increase prices in this manner.

Case A.2 shows the levels to which the upper and lower tier prices adjusted equally at the rate of 7 percent would be further adjusted in each year to comply with the adjusted statutory composite price, together with the percentage adjustment from the 7 percent adjustment price in each case. For example, in February, 1977, the upper and lower tier prices (both adjusted by 7 percent annually) could be further increased by .7 percent of such adjusted price and still be in compliance with the statutory composite price, as adjusted by 10 percent in every year. However, in February, 1978, upper and lower tier prices which were increased by 7 percent annually would have to be reduced by .6 percent to be in compliance with the adjusted statutory composite price, and in February, 1979, the reduction would increase to 3.7 percent. In this case, the effective rate of the inflation adjustment to be applied to the upper tier and lower tier prices would therefore be reduced from 7 percent annually to an average of 5.77 percent annually over the 40-month period from February, 1976, to May, 1979.

Case A.3 indicates how the upper and lower tier prices (both adjusted by 7 percent annually) would be further adjusted to comply with a statutory composite price adjusted by 10 percent in the first year and by 7 percent thereafter. This case assumes that authority to apply a 3 percent production incentive is discontinued in February, 1977, under section 8(f) of the amended EPAA. The effective rate of the inflation adjustment applied to the upper tier and lower tier prices in this case would be reduced from 7 percent annually to an average of 3.63 percent annually over the 40-month period.

Case A.4 shows how the upper and lower tier prices (both adjusted by 7 percent annually) would be further adjusted to comply with a statutory composite price adjusted by 10 percent in every

year, with projected Alaskan crude oil production included in the composite price in 1978 as "upper tier" crude oil. In this case, the rate of the inflation adjustment which can be applied to the upper tier and lower tier prices would be reduced from the starting point of 7 percent annually to an average of 4.57 percent annually over the 40-month program.

In Case A.5, upper and lower tier prices (both adjusted by 7 percent annually) are further adjusted to comply with a statutory composite price adjusted by 10 percent in the first year and 7 percent thereafter, and with projected Alaskan crude oil included in the composite price in 1978 as "upper tier" crude oil. Here, the effective rates of the inflation adjustment which can be applied to upper tier and lower tier prices would be reduced from 7 percent annually to an average of only 2.44 percent annually over the 40-month period.

Cases B.1 through B.5 present similar data except that in these cases the 7 percent inflation adjustment is applied to the upper tier price levels only. No reduction in the upper tier price, thus adjusted, is required in any year to comply with the adjusted statutory composite price, with the following exceptions: (1) in Case B.3, where the statutory composite price is adjusted by 10 percent in the first year and by 7 percent thereafter, a reduction in the upper tier price (increased by 7 percent annually) would be required in 1979 to comply with the statutory composite price; (2) in Case B.4, where the statutory composite price is adjusted by 10 percent in every year and the upper tier includes projected Alaskan crude oil in 1978, the upper tier price (increased by 7 percent annually) would have to be reduced in 1978 and 1979 in order to comply with the statutory composite price; and (3) in Case B.5, where the statutory composite price is adjusted by 10 percent in the first year and 7 percent thereafter and the upper tier includes projected Alaskan crude oil production in 1978, the upper tier price (increased by 7 percent annually) would have to be reduced in 1978 and 1979 by greater amounts in order to comply with the statutory composite price.

C. Production Incentive: Adjustment to BPCL Combined with 3 Percent Price Increase. Many comments were received in connection with FEA's recent first stage rulemaking proceeding on the crude oil composite price, which indicated that the production incentive afforded by higher price ceilings on "new" crude oil production would inevitably become increasingly ineffective to stimulate additional production through enhanced recovery techniques as natural rates of production decline resulted in levels of production that were further and further below the property's BPCL. It was suggested, therefore, that even though FEA has updated the BPCL from 1972 to 1975, the use of a production level which must be exceeded in order to bring higher prices will serve as an effective production incentive only if adjustments to the base production control level are made to reflect production decline rates. FEA

recognizes the validity of these comments and, therefore, FEA proposes to reduce the base production control level (BPCL) for old crude oil properties (i.e., properties which have not produced any "new" or "released" crude oil) to reflect natural rates of production decline, on a property-by-property basis.

In general, increased production from fully-developed existing "onshore" properties within the contiguous United States can be obtained only through enhanced recovery techniques—that is, techniques which involve so-called secondary or tertiary procedures designed to bring additional amounts of crude oil from reservoirs experiencing declining production. Without the use of such special techniques to enhance crude oil recovery, there would be little expectation of augmented production from fully-developed "onshore" production zones. Apart from "enhanced recovery" and further development of existing reservoirs within the contiguous 48 states, the principal sources of significant additional amounts of domestic crude oil are Alaskan and "offshore" leases, all production from which will constitute "new" crude oil and therefore be permitted to be priced at the upper tier level, or perhaps at higher price levels.

Without the proposal for declining BPCLs, the built-in incentive for increased production afforded by upper tier price levels would gradually weaken or become ineffective, with respect to declining properties. Therefore, the effect of the proposal to provide for reductions in BPCLs to correspond to natural production declines would normally be to augment the effectiveness of the "upper tier" price levels as a stimulant to increased production levels through enhanced recovery techniques or further development.

However, since the reduction in the proportion of "lower tier" crude oil to be produced over the next 39 months would otherwise substantially erode the upper tier price level (in order to meet the statutory composite ceiling price) and would thus ultimately tend to discourage development of new enhanced recovery programs, it becomes necessary in connection with the reduction in BPCL to implement to the fullest extent the 3 percent annual price increase permitted under the amended EPAA as a production incentive, in order to maintain the effectiveness of the upper tier price level as an incentive.

In other words, the proposed reduction in the BPCL as a production incentive necessarily requires that the 3 percent price adjustment to the composite price as a production incentive be applied, or the downward pull on actual upper tier prices caused by the projected reduction in the proportion of "lower tier" crude oil to be produced would neutralize the incentive or render it less effective. Accordingly, the 3 percent price adjustment must be implemented in order to make this production incentive effective. Under this analysis, therefore, the 3 percent composite price adjustment, together with adjustment in BPCL, provides "positive incentive" for application of en-

hanced recovery techniques leading to levels of production higher than would otherwise occur from the properties concerned.

Section 8(d)(3) of the amended EPAA (quoted in Section I.B., above) requires findings that the production incentive adjustment is likely to provide positive incentive for (1) discovery or development of high cost and high risk properties, (2) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur but for such adjustment, or (3) sustaining production from marginal wells including stripper wells. FEA believes that a valid finding in this respect can be made, particularly as relates to the application of enhanced recovery techniques to obtain higher levels of production, as noted in the analysis above. Comment is requested as to the validity of such findings under alternative methods for adjustments to price ceilings, including the use of the 3 percent adjustment both to account for increases in the composite price resulting from changes in the proportion of lower tier crude oil, and—in the case of certain alternatives discussed above—to provide higher prices for lower tier or upper tier crude oil.

As previously noted, section 8(b)(2) findings are also required with respect to the alternative price-adjustment methods which would increase lower tier price levels. Comments should, therefore, include discussion of how the requirement of findings in this respect can be met.

FEA proposes to permit the BPCL for properties from which new crude oil has not been produced and sold to be adjusted downward, on a semi-annual basis beginning in July 1976, to reflect the decline rate of the property concerned. Data available to FEA indicates that production decline rates vary considerably among properties, with no significant statistical clustering of decline rates at a particular level or levels. Thus, to use a single decline rate applicable to all declining properties for BPCL adjustment purposes, based on a national average production decline rate, would appear to provide an undue windfall in those cases where the natural decline rate is less than the average, and too small an adjustment to be meaningful in those cases where the natural rate of decline is significantly in excess of the national average rate. FEA has tentatively concluded, therefore, that the most equitable and most effective means of adjusting the BPCL to keep it within reach as an incentive toward enhanced recovery programs is to permit each property's BPCL to be adjusted to reflect its particular rate of decline. Comment on the foregoing proposal or possible alternatives is requested.

FEA proposes that the property's annual production decline rate be determined for purposes of BPCL adjustments in the second half of 1976 and the first half of 1977 by subtracting total amounts produced and sold in 1975 from total amounts produced and sold in 1972. The result, taken as a percentage of the total

amount produced and sold in 1972, would be divided by three, the number of calendar years which have elapsed since 1972, to obtain the annual rate of decline. The decline rate for BPCL adjustments in subsequent periods would be derived in the same manner, but using more recent total production and sale figures, e.g., the years 1973 and 1976 for purposes of adjustments in the second half of 1977 and the first half of 1978. It should be noted that this method affords a six month period following the end of a calendar year before that year's total production and sale of crude oil would be used to calculate a rate of decline. This delay is proposed in order to provide adequate time for the necessary data to be collected and a new decline rate calculated.

Comment is requested on the proposed method, or on any alternative methods, for determining annual rates of decline. In particular, comment is requested on the three-year interval between total production and sales volumes from which the decline rate would be calculated, and on whether the decline rate is adequately based on a straight line basis, or whether a more complex exponential decline curve should be prescribed.

FEA has tentatively concluded that, while it might be desirable to progressively reduce the BPCL in each month in order to provide for maximum incentives for enhanced recovery, a system of semi-annual adjustments of BPCL appears to be preferable in order to minimize administrative complexity for producers and to simplify FEA audit requirements. FEA also believes it would be desirable to postpone the first BPCL adjustments until July 1, 1976, in order to provide sufficient time for development of forms and procedures for BPCL adjustment calculations. FEA, therefore, proposes that, for each six-month period commencing after June 30, 1976 the BPCL for the month concerned be reduced by an amount equal to one-half the annual percentage rate of decline for the property concerned. Under this method, BPCL-adjustment calculations are required only every six months.

Specifically, the adjusted BPCL for each month in the second half of 1976 would be determined pursuant to the formula set forth in proposed § 212.76(b), which would operate to adjust the BPCL downward by one-half the annual rate of production decline for the property concerned.

A second formula set forth in proposed § 212.76(b) would operate to further adjust the adjusted BPCLs for the prior six-month period downward in each succeeding six-month period by one-half the annual rate of decline for the property concerned. To effect this result, one-half of the appropriate annual rate of decline would be applied to the sum of the monthly adjusted BPCLs for the prior six-month period, divided by the number of days in that period, and multiplied by the number of days in the months concerned. Comments are requested with respect to this method of BPCL adjustment and alternative methods.

In view of the intent of this supplemental production incentive device, FEA proposes that it be applied only to those properties which have experienced actual declining production rates since 1974, and which have therefore not produced any "new" or "released" crude oil since 1974. Properties which have experienced increased production rates since 1974 (and whose BPCLs may therefore reflect a lesser amount than their average total monthly production for calendar year 1975 because their total production included some "new" and "released" crude oil), would not qualify until the first six-month period following a six-month period in which total production was less than the sum of the BPCLs for all months in that six month period.

Thus, if the BPCLs for a particular property in 1976 were 1,033 barrels in July, 1,033 barrels in August, 1,000 barrels in September, 1,033 barrels in October, 1,000 barrels in November and 1,033 barrels in December, and the annual decline rate of that property were 10 percent between 1972 and 1975, the adjusted BPCL for that property pursuant to the first formula of proposed § 212.76(b) would be 981 barrels in July, 981 barrels in August, 950 barrels in September, 981 barrels in October, 950 barrels in November, and 981 barrels in December, 1976. Production in excess of these levels could be priced at the upper tier ceiling price (assuming no cumulative deficiencies). The BPCLs for January through June, 1977, could be further adjusted pursuant to the second formula of proposed § 212.76(b), to be 932 barrels in January, 842 barrels in February, 932 barrels in March, and so forth. In brief, a five percent reduction would be made in the number which is the sum of the July through December, 1976 adjusted BPCLs, divided by the number of days in that six-month period, and multiplied by the number of days in the month concerned (e.g., for January, the adjusted BPCL would be

$$.95 \times \frac{981 + 981 + 950 + 981 + 950 + 981}{184} \times 31 = 932$$

FEA also proposes that some limits be placed on the range of decline rates usable. For example, the maximum decline rate might be set at 25 percent annually, so that the BPCL of any property with an actual decline rate in excess of 25 percent could be reduced by only 25 percent. Similarly, a minimum decline rate of 2 percent, for example, might be established, so that properties with a decline rate of less than 2 percent could be assured of a BPCL reduction of 2 percent annually.

III. Subsequent adjustments

A. *GNP Deflator Adjustments.* As indicated above, section 8(d)(2) of the amended EPAA requires the impact of inflation to be measured by "the first revision . . . of the most recent implicit price deflator for the gross national product which shall be completed and published each calendar quarter by the Department of Commerce . . ."

The implicit price deflator for the gross national product ("GNP deflator"),

which is calculated by the Department of Commerce for every calendar quarter, is used to determine the annual rate of inflation for the quarter concerned (e.g., 7.5 percent), seasonally adjusted. The GNP deflator is published in the month following the last month of each quarter, and the first revised figures are published in the second month following the close of each quarter. These revised figures are subject to further revision for a period of up to 2 or 3 years.

With respect to inflation adjustments for crude oil produced and sold in March, April and May, 1976, FEA proposes to apply the EPAA requirement that the "first revision . . . of the most recent" quarterly GNP deflator index be used, for purposes of adjusting the composite price of domestic crude oil to reflect the impact of inflation, so that the GNP deflator applicable to price adjustments in March and April would be the first revision of the GNP deflator for the fourth quarter of 1975, which will be published in mid-February, 1976. Similarly, FEA proposes to use the first revision of the GNP deflator for the first quarter of 1976 (to be published in mid-May, 1976) for price adjustments in June, July and August, 1976. The GNP deflator for the second quarter of 1976 (to be published in mid-August) would be used for price adjustments in September, October and November, and so forth.

FEA proposes to issue at the completion of this rulemaking in March, 1976, a price schedule that provides for price adjustments to reflect inflation over the 39 months of the crude oil price control program, with the rate of inflation initially to be based on the figure for the fourth quarter of 1975, as discussed above. The price schedule would specify the exact amount of cents per barrel that may be added each month to the May 15, 1973 field prices for old oil or the September 30, 1975 field prices for upper tier oil, or both. It is proposed that subsequent price adjustment notices to take into account successive quarterly GNP deflator indices will be issued on a semi-annual basis, as needed, beginning in late August, 1976. Such price adjustment notices will specify revised specific cents per barrel amounts for lower tier and upper tier ceiling prices for the remaining months of the 40-month program, subject, of course, to further semi-annual revisions to reflect subsequent actual GNP deflator indices, as they become available. Examples of these price schedules based on Cases A.2 and B.2 in the Appendix, are set forth in Table 3 at the end of the Appendix to this rulemaking.

As noted earlier, section 8(d)(2) of the EPAA provides that the GNP deflator is subject to modification before being used to determine the amount of the inflation adjustment, to exclude any direct effects on the GNP deflator of increases in the price of imported crude oil which occur after December 22, 1975, as a result of concerted action of two or more petroleum exporting countries. It appears that the possibility of any direct effect on the

GNP deflator of such price increases may be precluded by the fact that imports are subtracted from other components of final demand in GNP deflator computations, and the impact of increases in imported crude oil would appear to be offset by equivalent increases in those other GNP components under dollar-for-dollar cost pass-through limitations. FEA therefore requests comments on whether any review of the GNP deflator will be necessary in this respect. In any event, the GNP deflator index will be revised, before used to determine the inflation adjustment factor, to avoid any unintended aberration that might otherwise result if there are any major changes in the Department of Commerce's method of computing the GNP deflator which would otherwise have a significant impact on the adjustment for inflation permitted under section 8(d)(2) of the amended EPAA.

Thus, for example, the FEA might determine, on the foregoing basis, that the upper tier ceiling price, adjusted for inflation, was to be \$11.35 per barrel for March and \$11.42 per barrel for April, 1976 (based on the as yet still unreleased first revision of the fourth quarter 1975 GNP deflator). Further prices would be projected for the remaining 37 months. The public would be notified prior to September 1, 1976, of any changes in the projected upper and lower tier ceiling prices which would be necessary for the months of September, 1976, through February, 1977, based upon the GNP deflator for the first and second quarter of 1976.

B. Adjustments for Actual Prices in Excess of or Below the EPCA Composite Price. The amended EPAA recognizes that there will be discrepancies between the weighted average of first sale prices actually charged for domestic crude oil and the maximum weighted average composite first sale price provided for by section 8(a) of the EPAA. A procedure is therefore set forth in section 8(c) of the EPAA whereby FEA is required to determine, not later than six months after the effective date of the pricing policy provided for by section 8(a) of the EPAA, and at intervals of not more than six months thereafter, the extent to which the actual weighted average first sale price of domestic crude oil "exceeded or was less than" the \$7.66 per barrel maximum composite price, "as may be adjusted pursuant to this section [8]."

If it is found that the \$7.66 per barrel (as adjusted) ceiling was exceeded, based on the weighted average of first sale prices actually charged, a regulation amendment is required which will "make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighted average first sale price for domestic crude oil sufficient to offset such excess." Similarly, if it is found that the weighted average of first sale prices actually charged during the period concerned was less than \$7.66 per barrel, as adjusted, the price regulations may be amended, notwithstanding the rules limiting the amount of the adjustment to the \$7.66

per barrel (as adjusted) ceiling, in order to "make such compensating adjustments * * * as are necessary to offset the deficiency in a corresponding period."

FEA proposes to adopt a 6-month review procedure of actual first sale prices which is consistent with this requirement and which will coincide with the 6-month GNP deflator price adjustment notices. Thus, FEA plans to determine the extent of actual excesses/deficiencies not later than July, 1976, based on the most recent valid and reliable data available at that time, so that offsetting adjustments in the price rules, if necessary, can be made effective during the ensuing 6-month period, and can be made concurrently with any adjustments to the ceiling prices which may be announced in late August, 1976, to reflect the impact of inflation as set forth in the GNP deflator index published in mid-August. Such adjustments would be effective with respect to transactions beginning September 1, 1976. The same process would occur again in late February, 1976, and so forth.

It should be noted that adjustments for this purpose may be made more frequently than every six months, particularly in the early months of the 40-month program, since various aspects of the composite price regulations have necessarily been based on estimates. As soon as the acquisition of accurate price data through newly implemented data collection systems is completed, an early one-time correction for estimation errors will be made. Such one-time corrections should, however, become less frequent as the data base for the program is developed.

Finally, FEA proposes to apply all subsequent adjustments to the initial price schedule issued in March 1976, other than one-time adjustments to correct for incorrect initial estimates or assumptions, in the same manner as the inflation adjustment is initially applied. Thus, if, as a result of the rulemaking, it is decided to apply the inflation adjustment equally to both upper and lower price tiers, and if during the first six months, actual prices charged were in excess of the maximum weighted average first sale price permitted under section 8(a) of the EPAA, both upper and lower tier prices would be reduced at equal rates during the following six months to offset the total amounts charged in excess of the composite price. This same procedure would also apply if the Congress does not approve continuation of the 3 percent production incentive adjustment after February 1977 or requires that Alaska be included in the calculation of the composite price after April 1977. On the other hand, with respect to any proposal to increase the production incentive adjustment above 3 percent or the combined adjustment limitation above 10 percent, the manner of applying such increased adjustments will be specifically discussed in the related proposed rulemaking and may differ from the general method adopted pursuant to this rulemaking. Comments are also requested with respect to this procedure.

IV. Heavy California Crude Oil.

Comments are solicited in this proceeding on the extent to which the regulations adopted in the implementation of the first stage of the crude oil pricing policy of the EPCA (41 FR 4931, February 3, 1976), together with the proposals made herein, will affect the economic forecasts which were developed by California producers and royalty owners and submitted in the first stage proceeding.

V. Procedures for Receiving Comments and Public Hearing.

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3309, 12th and Pennsylvania Avenue, NW., Federal Energy Administration, Box GA, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Adjustments to Crude Oil Ceiling Prices." Fifteen copies should be submitted. All comments received by Wednesday, March 17, 1976, before 4:30 p.m., e.s.t., will be considered by the Federal Energy Administration before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination. The public hearing in this proceeding will be held at 9:30 a.m., e.s.t., on Wednesday, March 17, 1976, and will be continued, if necessary, on Thursday, March 18, 1976, at the Departmental Auditorium, Conference Room B, Constitution Avenue between 12th and 14th Streets, NW., Washington, D.C., in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., on Tuesday, March 9, 1976. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he is proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Monday, March 15, 1976. Each person selected to be heard will be so notified by the FEA before 4:30

p.m., Thursday, March 11, 1976 and must submit 100 copies of his statement to Regulations Management, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., on Tuesday, March 16, 1976.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.s.t., Monday, March 15, 1976. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

The inflationary impact of this proposal has been considered by the FEA, consistent with the Executive Order 11821, issued November 27, 1974.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163; Federal Energy Administration Act

of 1974, Pub. L. 93-275; Energy Policy and Conservation Act Pub. L. 94-163; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II, Title 10 Code of Federal Regulations as set forth below.

Issued in Washington, D.C. February 26, 1976.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

1. The definition of "Base production control level" in § 212.72 is amended to read as follows:

§ 212.72 Definitions.

"Base production control level" means: (1) with respect to months ending prior to February 1, 1976:

(i) if crude oil was produced and sold from the property concerned in every month of 1972, the total number of barrels of domestic crude oil produced and sold from that property in the same month of 1972;

(ii) if crude oil was not produced and sold from the property concerned in every month of 1972, the total number of barrels of crude oil produced and sold from that property in 1972, divided by 12;

(2) with respect to months commencing after January 31, 1976, except as provided in § 212.76, either:

(i) the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; or

(ii) if the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(1), the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned.

2. A new § 212.76 is added to read as follows:

§ 212.76 Adjustments to Base Production Control Levels.

(a) *Eligibility.* (1) With respect to a property from which no new crude oil or released crude oil was produced for any month in the 18-month period ending June 30, 1976, a producer may, for each six-month semi-annual period commencing after June 30, 1976, adjust the base production control level for the property concerned for each month during that six-month period in accordance with paragraph (b) of this section.

(2) With respect to all properties other than those subject to paragraph (a)(1) of this section, a producer may adjust the base production control levels applicable thereto in accordance with paragraph (b) of this section, commencing with any six-month semi-annual period in any year subsequent to 1976, if the total production of crude oil for the property concerned in the first six-

month period prior to that six-month period was less than the sum of the base production control levels for all months in that prior six-month period.

(b) *Rule.* The base production control level for properties which qualify for an adjusted base production control level may be adjusted only in accordance with the following formulae:

(1) For the period July 1, 1976, through December 31, 1976:

$$ABPCL = \left(1 - \frac{ARPD}{2}\right)(BPCL)$$

(2) For each six-month period thereafter:

$$ABPCL = \left(1 - \frac{ARPD}{2}\right)(ABPCL')$$

Where: ABPCL=The adjusted base production control level for the month concerned.

BPCL=The base production control level for the month concerned, computed under § 212.72 as revised effective February 1, 1976.

ABPCL'=The sum of the adjusted base production control levels for the immediately preceding six month period as computed pursuant to this section, divided by the number of days in that period and multiplied by the number of days in the month concerned.

ARPD=The annual rate of production decline applicable to the property concerned. For adjustments to the BPCL in the last six months of 1976 and the first six months of 1977, the ARPD is determined by subtracting the total amount of crude oil produced and sold from the property concerned in 1975 from that property's total amount of crude oil produced and sold in 1972. The result, expressed as a percentage of the total amount of crude oil produced and sold from that property in 1972, is divided by three to obtain the ARPD. For adjustments to the BPCL in the last six months of 1977 and the first six months of 1978, the ARPD is determined by subtracting the total amount of crude oil produced and sold from the property concerned in 1976 from that property's total amount of crude oil produced and sold in 1973. The result, expressed as a percentage of the total amount of crude oil produced and sold from that property in 1973, is divided by three to obtain the ARPD. For adjustments to the BPCL in the last six months of 1978 and the first five months of 1979, the ARPD is determined by subtracting the total amount of crude oil produced and sold from the property concerned in 1977 from that property's total amount of crude oil produced and sold in 1974. The result, expressed as a percentage of the total amount of crude oil produced and sold from that property in 1974, is divided by three to obtain the ARPD. However, notwithstanding the foregoing definition of ARPD, for ARPDs which exceed ____ percent, the ARPD shall be ____ percent, and for all ARPDs which are less than ____ percent, the ARPD shall be ____ percent.

3. A new § 212.77 is added to read as follows:

§ 212.77 Adjustments to ceiling prices.

(a) *Rule.* Notwithstanding any other provision of this Part, the FEA may, with respect to months commencing after February 29, 1976, provide for adjustments to the ceiling prices established under §§ 212.73 and 212.74 to take into account the impact of inflation and to provide a production incentive.

(b) *Procedures.* In providing for price adjustments under paragraph (a) of this

section, FEA shall from time to time issue a price adjustment notice which shall specify the dollar amounts by which ceiling prices may be adjusted pursuant to this section in each subsequent month. The notice shall specify (1) the portion of the price adjustment intended to take into account the impact of inflation and the basis upon which the adjustment for inflation was calculated, (2) the portion of the price adjustment which relates to production incentive, and (3) if applicable, the portion of the price adjustment which is intended to offset differences between actual prices charged and ceiling price levels.

APPENDIX

(All prices expressed in nominal dollars)

TABLE 1.—Domestic crude oil production excluding Alaskan North Slope oil

[Millions of barrels per day]			
Year	Old	New	Total
1975.....	5.00	3.33	8.33
1976.....	4.60	3.45	8.05
1977.....	4.20	3.95	8.15
1978.....	3.80	4.98	8.78

Table 1 provides the FEA projections of the average daily production of "old" and "new" crude oil during the last quarter of the years 1976 through 1978, based on an assumed "old" crude oil decline rate of 8 percent per year. The table projects all domestic production from the contiguous 48 states, including "new" offshore production. No Alaskan production is included. The table projects a substantial change in the proportion of "old" crude oil, which declines from 60 percent of total production in 1975 to about 43 percent in 1978. During the same period, total production in this table increases from an average of 8.3 million barrels per day to an average of 8.78 million barrels per day.

TABLE 2.—Domestic crude oil production including Alaskan North Slope oil

[Millions of barrels per day]			
Year	Old	New	Total
1975.....	5.00	3.33	8.33
1976.....	4.60	3.45	8.05
1977.....	4.20	5.15	9.35
1978.....	3.80	6.35	10.15

Table 2 is the same as Table 1 except that average daily production of 1.2 and 1.37 million barrels of Alaskan crude oil forecast for the end of 1977 and 1978, respectively, is included as "new" crude oil.

CASE A.1.—How prices would increase with 7 pct inflation adjustment applied to both tiers, compared to statutory composite price

February of year	Upper tier price	Lower tier price	Resulting composite price	Statutory composite price ¹
1976.....	\$11.28	\$5.25	\$7.66	\$7.66
1977.....	12.07	5.62	8.38	8.44
1978.....	12.86	5.98	9.32	9.26
1979.....	13.87	6.46	10.66	10.27

¹ Adjusted by 10 pct each year (7 pct inflation adjustment and 3 pct production incentive adjustment). Figures do not exactly total 10 pct added each year. The slight differences (less than 1 pct of totals) are due primarily to computation method used for purposes of these general preliminary projections. A 3 pct compound rate was first applied to \$7.66, yielding composite price levels in real dollars. A 7 pct compound rate was then applied to obtain the nominal price levels indicated above.

Case A.1 shows that a 7 percent inflation adjustment could be applied to both tier levels in 1976 and 1977 but that in 1978 and 1979 the resulting actual composite price would exceed the statutory composite price adjusted by 10 percent annually. This effect is due to the projected change in the relative proportions of upper and lower crude oil production between 1975 and 1978 (see Table 1).

CASE A.2.—How upper and lower tier prices in case A.1. would be adjusted to comply with statutory composite price adjusted by 10 pct every year

February of year	Adjusted upper tier price	Percentage adjustment	Adjusted lower tier price	Percentage adjustment	Statutory composite price
1976.....	\$11.28	NA	\$5.25	NA	\$7.66
1977.....	12.16	+0.7	5.66	+0.7	8.44
1978.....	12.78	— .6	5.94	— .6	9.26
1979.....	13.36	— 3.7	6.21	— 3.7	10.27

In Case A.2, the adjustments to the upper and lower tier prices reduce the effective rate of inflation from 7 percent annually to an average of 5.77 percent annually over the 40 month period from February, 1976, to May, 1979.

PROPOSED RULES

CASE A.3.—How upper and lower tier prices in case A.1. would be adjusted to comply with statutory composite price adjusted by 10 pct in 1st year and 7 pct thereafter

February of year	Adjusted upper tier price	Percentage adjustment	Adjusted lower tier price	Percentage adjustment	Statutory composite price
1976.....	\$11.28	NA	\$5.25	NA	\$7.66
1977.....	12.15	+0.7	5.66	+0.7	8.44
1978.....	12.42	-3.5	5.78	-3.5	8.99
1979.....	12.63	-9.0	5.88	-9.0	9.70

Case A.3 assumes that authority to apply a 3 percent production incentive adjustment is discontinued in February, 1977, under section 8(f) of the amended EPAA. In this case, the adjustments to the upper and lower tier prices reduce the effective rate of inflation from 7 percent annually to an average of 3.63 percent annually over the 40 month period from February, 1976, to May, 1979.

CASE A.4.—How upper and lower tier prices in case A.1. would be adjusted to comply with statutory composite price adjusted by 10 pct in each year; upper tier includes projected Alaskan production in 1978

February of year	Adjusted upper tier price	Percentage adjustment	Adjusted lower tier price	Percentage adjustment	Statutory composite price
1976.....	\$11.28	NA	\$5.25	NA	\$7.66
1977.....	12.15	+0.7	5.66	+0.7	8.44
1978.....	12.18	-5.3	5.67	-5.3	9.26
1979.....	12.84	-7.5	5.98	-7.5	10.27

In Case A.4, the adjustments to the upper and lower tier prices reduce the effective rate of inflation from 7 percent annually to an average of 4.57 percent annually over the 40 month period from February, 1976, to May, 1979.

CASE A.5.—How upper and lower tier prices in case A.1. would be adjusted to comply with statutory composite price adjusted by 10 pct in 1st year and 7 pct thereafter; upper tier includes projected Alaskan production in 1978

February of year	Adjusted lower tier price	Percentage adjustment	Adjusted upper tier price	Percentage adjustment	Statutory composite price
1976.....	\$11.28	NA	\$5.25	NA	\$7.66
1977.....	12.15	+0.7	5.66	+0.7	8.44
1978.....	11.84	-7.9	5.51	-7.9	8.99
1979.....	12.13	-12.6	5.65	-12.6	9.70

In Case A.5, the adjustments to the upper and lower tier prices reduce the effective rate of inflation from 7 percent annually to an average of 2.44 percent annually over the 40 month period from February, 1976, to May, 1979.

CASE B.1.—How prices would increase with 7 pct inflation adjustment applied to upper tier only, compared to statutory composite price

February of year	Upper tier price	Lower tier price	Resulting composite price	Statutory composite price ¹
1976.....	\$11.28	\$5.25	\$7.66	\$7.66
1977.....	12.07	5.25	8.17	8.44
1978.....	12.86	5.25	8.94	8.99
1979.....	13.87	5.25	10.14	10.27

¹ Adjusted by 10 pct each year (7 pct inflation adjustment and 3 pct production incentive adjustment).

Case B.1 shows that a 7 percent inflation adjustment, if applied to the upper tier only, could be applied in every year without exceeding the statutory composite price assuming the statutory composite price is increased by the maximum 10 percent adjustment every year.

CASE B.2.—How upper tier prices in case B.1. would be adjusted to comply with statutory composite price adjusted by 10 pct every year

February of year	Adjusted upper tier price	Percentage adjustment	Lower tier price	Statutory composite price
1976.....	\$11.28	NA	\$5.25	\$7.66
1977.....	12.69	+5.2	5.25	8.44
1978.....	13.51	+5.1	5.25	9.26
1979.....	14.10	+1.6	5.25	10.27

CASE B.3.—How upper tier prices in case B.1. would be adjusted to comply with statutory composite price adjusted by 10 pct in 1st year and 7 pct thereafter

February of year	Adjusted upper tier price	Percentage adjustment	Lower tier price	Statutory composite price
1976	\$11.28	NA	\$5.25	\$7.66
1977	12.69	+5.2	5.25	8.44
1978	12.97	+9	5.25	8.99
1979	13.10	-5.6	5.25	9.71

CASE B.4.—How upper tier prices in case B.1. would be adjusted to comply with statutory composite price adjusted by 10 pct each year; upper tier includes projected Alaskan production in 1978

February of year	Adjusted Upper tier price	Percentage adjustment	Lower tier price	Statutory composite price
1976	\$11.28	NA	\$5.25	\$7.66
1977	12.69	+5.2	5.25	8.44
1978	12.52	-2.6	5.25	9.20
1979	13.27	-4.3	5.25	10.27

CASE B.5.—How upper tier prices in case B.1. would be adjusted to comply with statutory composite price adjusted by 10 pct in 1st year and 7 pct thereafter; upper tier includes projected Alaskan production in 1978

February of year	Adjusted Upper tier price	Percentage adjustment	Lower tier price	Statutory composite price
1976	\$11.28	NA	\$5.25	\$7.66
1977	12.47	+5.2	5.25	8.44
1978	12.25	-6.3	5.25	8.99
1979	12.65	-10.8	5.25	9.71

TABLE 3.—Schedule of monthly price increases

[Restrained by 10 pct]

Month No.	Case A.2.		Case B.2.	
	Lower ¹	Upper ²	Lower ¹	Upper ²
	Plus	Less	Plus	Less
1	\$1.35	\$1.32	\$1.32	
2	1.29	1.23	1.20	
3	1.43	1.16	1.09	
4	1.46	1.09	.97	
5	1.49	1.02	.85	
6	1.52	.94	.73	
7	1.56	.87	.61	
8	1.60	.80	.50	
9	1.63	.73	.38	
10	1.67	.66	.26	
11	1.70	.59	.14	
12	1.73	.52	.02	
February 1977..	1.77	.45	.09	
14	1.79	.39	.16	
15	1.82	.34	.23	
16	1.84	.29	.30	
17	1.87	.24	.37	
18	1.90	.19	.43	
19	1.92	.13	.50	
20	1.95	.08	.57	
21	1.97	.03	.64	
	Plus			
22	1.99	.02	.71	
23	2.02	.07	.77	
24	2.04	.12	.84	
25	2.07	.18	.91	
26	2.09	.23	.96	
27	2.11	.28	1.01	
28	2.13	.32	1.06	
29	2.16	.37	1.11	
30	2.18	.42	1.16	
31	2.20	.47	1.21	
32	2.23	.52	1.25	
33	2.25	.57	1.30	
34	2.27	.62	1.35	
35	2.29	.66	1.40	
36	2.32	.71	1.45	
February 1979..	2.34	.76	1.50	
38	2.37	.82	1.56	
39	2.39	.88	1.61	
40	2.42	.94	1.67	

¹ May 15, 1973, posted price (the price referred to in 10 CFR 212.73(b)(1)).

² Sept. 30, 1975, posted price (the price referred to in 10 CFR 212.74(b)(1)).

This schedule provides the amounts which may be added in each month during the 40-month program to the applicable "posted price" under Cases A.2 and B.2. Month 1 is the month of February, 1976. The schedule illustrates the way in which FEA proposes to organize the data to be provided in the proposed semi-annual price adjustment notices required by the proposed § 212.77(b). Comments on this method or alternative methods of organization and presentation are requested.

[FR Doc.76-5965 Filed 2-27-76;9:39 am]

[10 CFR Parts 211, 212]

SMALL REFINER PURCHASE EXEMPTION UNDER ENTITLEMENTS PROGRAM

Proposed Modification and Public Hearing

Section 403(a) of the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA"), amended the Emergency Petroleum Allocation Act of 1973 (the "EPAA") to exempt refiners whose refining capacity did not exceed on January 1, 1975 and does not thereafter exceed 100,000 barrels per day from the entitlement purchase requirements of FEA's old oil allocation or entitlements program as to the first 50,000 barrels per day of their inputs or receipts, or both. Section 403(b) of the EPCA made such exemption applicable to payments due on or after the last day of the month during which the EPCA was enacted (December 1975). Since, pursuant to § 211.67(b), payments for October 1975 entitlements were due December 31, 1975, FEA was required to make the small refiner purchase exemption provided by

the EPCA applicable to the purchase and sale obligations set forth in the October 1975 entitlement notice. This exemption as of the date hereof has therefore been in effect for October, November and December 1975 entitlements.

On December 31, 1975 the FEA adopted Special Rule No. 6 for Subpart C (the "Special Rule") effective immediately in order to implement in a timely fashion the requirement of section 403(a) of the EPCA. FEA concurrently issued a revised entitlement notice for October 1975 reflecting the adoption of the special rule.

As set forth in the special rule, section 455 of the EPCA amended the EPAA to add a new section 12(g) which permits FEA to modify the small refiner purchase exemption now set forth in the special rule where the exemption is determined to result in an unfair economic or competitive advantage with respect to other small refiners or otherwise to have the effect of seriously impairing FEA's ability to provide for the attainment of the objectives of the EPAA. The purpose of this notice of proposed rulemaking is to set forth FEA's initial conclusions and proposed modifications as to the small refiner purchase exemption. The public hearing and comment procedures in connection herewith will enable FEA to make a final determination as to this matter and to adopt such amendment as the agency deems appropriate, subject to disapproval by a majority vote of either House of Congress under the procedures described in section 551 of the EPCA.

FEA's present intention is to make any amendment so adopted effective for March 1976 entitlement transactions.

SPECIAL RULE NO. 6

The Special Rule applies only to small refiners whose total refining capacity on January 1, 1975 or any day thereafter did not exceed 100,000 barrels per day. The Special Rule exempts all such small refiners from any purchase requirements they would otherwise have as to the first 50,000 barrels per day of their daily average volume of crude oil runs to stills. Thus, such small refiners having run levels under 50,000 barrels per day have no purchase obligations. For small refiners having run levels in excess of 50,000 barrels per day, the Special Rule is applicable only to that number of entitlements which bears the same proportion to the total number of entitlements required to be purchased that 50,000 barrels per day bears to the average daily volume of crude oil runs to stills of that refiner.

The Special Rule also contains a provision to the effect that the exemption does not apply to old oil receipts under new purchase, exchange or processing agreements or similar transactions. This provision basically limits the application of the exemption to old oil supply arrangements as in effect for December 1975 and prevents shifts in old oil supplies to firms that benefit from the exemption.

FEA has initially determined that it is under an obligation to modify the exemption set forth in the special rule in

accordance with the provisions of section 12(g) of the EPAA, thus rendering the small refiner purchase exemption more in conformity with the objectives of the EPAA. The Special Rule as currently in effect provides incentives for small refiners benefiting from the exemption to curtail their crude runs by reducing purchases of domestic upper tier and imported crude oils and not to expand their refining capacity beyond the limit of 100,000 barrels per day set forth in the special rule. In addition firms benefiting from the exemption possess an inherent competitive advantage over other refiners and thus may lose certain incentives to operate their refineries in an efficient manner.

More importantly, as stated in the special rule, FEA recognized that the small refiner exemption under the EPCA initially implemented by the Special Rule might grant certain small refiners bene-

fits disproportionate to their actual needs, thereby providing them with a competitive advantage over other refiners (including many small refiners) to such an extent so as to be inconsistent with the objectives set forth in section 4(b) (1) of the EPAA. FEA's initial views on the small refiner purchase exemption were borne out by the magnitude of the benefits flowing from the exemption for entitlement transactions for the months October through December 1975.

The following table shows for each of these months the total number of firms receiving benefits from the exemption, the maximum cent per gallon benefit for an exempted firm, the aggregate amount of the exempted purchase obligations, the range of benefits to exempted firms, and the numbers of firms receiving per gallon benefits ranging from: Zero up to 1¢, 1¢ up to 5¢, 5¢ up to 10¢, and 10¢ and over.

Entitlement transactions

	October 1975	November 1975	December 1975
Number of exempted firms ¹	52	51	49
Maximum cent-per-gallon benefit	20	17.5	23
Total value of exemption	\$25,020,000	\$34,770,000	\$25,686,000
Range of benefits to exempted firms	\$2,065-\$4,372,000	\$6,276-\$4,498,000	\$9,000-\$4,596,000
Number of firms with per gallon benefits ranging from:			
Up to 1 cent	12	7	7
1 cent up to 5 cents	21	21	23
5 cents up to 10 cents	15	14	10
10 cents and over	4	9	9

¹ For October, 4 of the firms receiving benefits from the exemption were partially exempted, and for November and December, respectively, 5 and 3 firms were partially exempted.

All figures in the above table show the value of the exemption only to the extent the value thereof as to each exempted firm exceeds exemption relief as in effect for October 1975 entitlements, and the calculations also assume that this level of relief would have continued in effect for November and December entitlements.

The substantial subsidies shown above received by many firms by virtue of the exemption have caused FEA to conclude on a preliminary basis that competitive distortions will inevitably result if the exemption is continued at its current level.

The following table shows the estimated range of post-entitlement transaction crude oil costs for small refiners (including those with a capacity between 100,000 and 175,000 B/D) for December 1975 in twelve of the fourteen Bureau of Mines refining districts. These crude cost figures were not adjusted for quality differentials, but only for entitlement revenues or obligations, and do not reflect crude costs of firms with minimal crude oil runs for December.

Postentitlement crude costs for December 1975

Region ¹	Highest in dollars per barrel	Lowest in dollars per barrel	Difference between highest and lowest
1	13.14	7.73	5.41
2	12.42	9.40	3.02
3	12.76	6.33	6.43
4	11.35	9.69	1.66
5	11.26	5.60	5.66
6	13.52	6.05	7.47
7	10.77	4.18	6.59
8	10.31	5.60	4.71
9	13.49	6.17	7.32
10	10.39	9.26	1.13
11	11.35	6.82	4.53
12	9.44	3.39	6.05
13			
14			

¹ Bureau of Mines refining districts.

FEA's preliminary analysis has also been substantiated by numerous comments received from refiners and marketers as to the competitive inequities created by the small refiner purchase exemption.

In particular, numerous independent retail and wholesale marketers that compete with firms supplied by exempted

small refiners have advised FEA as to the existence of these inequities. Complaints by independent marketers were particularly evident in the public hearings held by FEA in various regions on February 17, 18 and 19, 1976 concerning the general reevaluation of FEA regulations. The records in these proceedings show that the exemption has already had a disruptive pricing effect at the retail level.

The record for FEA's public hearing on the Special Rule, held on January 22, 1976, also contains substantial additional evidence of the crude cost imbalances as between refiners under the special rule. In particular, numerous small refiner entitlement sellers that compete with exempted small refiners objected strongly to the exemption and demonstrated that in certain cases their companies' financial viability was seriously threatened if the full exemption were to remain in effect.

The EPCA specifically recognizes that unwarranted competitive or economic advantages might result from the implementation of the exemption. Section 455 of the EPCA sets forth authority for the agency to limit the exemption by amending the EPAA to add a new section 12(g), which provides as follows:

(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

(1) Results in unfair economic or competitive advantage with respect to other small refiners; or

(2) Otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such sections 551.

On the basis of the evidence set forth above, FEA has tentatively determined that the exemption from payments for certain small refiners required by subsection (e) of section 4 of the EPAA does result in an unfair economic and competitive advantage with respect to other small refiners and does seriously impair FEA's ability to provide in its regulations

for the attainment of the objectives specified in section 4(b)(1) of the EPAA.

In particular, FEA has tentatively concluded that the small refiner exemption required by section 4(e) of the EPAA will seriously impair its ability to attain the objective set forth in section 4(b)(1)(D) of providing for "preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;" the objective set forth in section 4(b)(1)(F) of providing for "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;" the objective set forth in section 4(b)(1)(H) of providing for "economic efficiency;" and the objective set forth in section 4(b)(1)(I) of providing for "minimization of economic distortion, unflexibility, and unnecessary interference with market mechanisms."

FEA invites comments as to the validity of these tentative determinations. As set forth in section 12(g) any amendment proposed to be adopted by FEA to limit the exemption under these provisions is required to be submitted to the Congress under the procedures specified in Section 551 of the EPCA and may be disapproved by a majority vote of either House.

PROPOSED LIMITATION OF EXEMPTION

With this as background, FEA is proposing the following procedures pursuant to which small refiners that receive the benefits of the exemption would be limited as to the value of the benefits received. Based on its preliminary analysis of competitive conditions in this industry, as well as of the intent of the Congress in enacting section 455, FEA has tentatively concluded that any competitive advantage accruing to a small refiner entitlement purchaser exceeding 1¢ per gallon as compared with a small refiner entitlement seller of the same size would constitute an unfair economic or competitive advantage within the meaning of section 12(g) of the EPAA. FEA's preliminary choice of the 1¢ per gallon figure is based on its conclusion that a pricing disadvantage in excess of this amount would have an adverse effect on a firm's market share. FEA also believes that this figure may in many cases be slightly less than the normal refinery's profit margin. Thus, in theory a small refiner entitlement seller could compete with a small refiner purchaser of the same size and with the 1¢ per gallon advantage (as proposed herein) and in order to so compete would not be forced to operate its refinery at a loss.

The permitted 1¢ per gallon differential would be over and above amounts received under the small refiner bias and

would therefore only be applicable in comparing a small refiner with another small refiner of a similar size, since all small refiners under the current program receive varying amounts of additional entitlements by the operation of the bias. The bias for instance (using current entitlement values) provides for an almost 2.5¢ per gallon advantage for a refiner processing 10,000 barrels per day as compared with a large independent or major integrated company. This per gallon advantage afforded to small refiners decreases as the particular refiner's run level increases. For example, a refiner processing 30,000 barrels per day receives an approximate 1.1¢ per gallon advantage; a refiner processing 50,000 barrels per day, an approximate .6¢ per gallon advantage; and a refiner processing 100,000 barrels per day, an approximate .25¢ per gallon advantage. FEA has initially determined that certain advantages for small refiners are valid and should be preserved, in that some small refiners do not possess the economies of scale and operating efficiencies of their larger competitors. FEA also believes that within the class of small refiners variations in the amount of the bias are appropriate since, for example, a 100,000 barrel a day small refiner should not need the same amount of bias entitlements that is required to maintain the competitive viability of a 100,000 barrel a day refiner. Thus, FEA's approach in this proposal has been to assume that the differentials provided for by the small refiner bias should be preserved for the time being, and the amount that would constitute an unfair economic or competitive advantage for a small refiner entitlement purchaser as against a small refiner entitlement seller should be calculated over and above amounts receivable by that purchaser as bias entitlements.

An example of how this procedure would operate is as follows. FEA would initially determine which firms were to receive the benefits of the exemption and determine for each of these firms the total dollar value of the exemption from the entitlement purchase obligations of the program. This dollar value would then be translated into a cent per gallon benefit for each exempted small refiner based on that refiner's volume of crude oil runs in the particular month. To the extent the benefits of the exemption exceeded 1¢ per gallon, the exempted old or upper tier crude oil receipts attributable to those excess benefits would become subject to the entitlement purchase obligations of the program.

FEA would like to emphasize again that these procedures would not result in an overall 1¢ per gallon advantage for an exempted small refiner as against each other small refiner that is a seller of entitlements. Since the amounts of the small refiner bias vary depending on the particular firm's crude run levels, a small refiner entitlement purchaser processing 10,000 barrels per day would receive a competitive advantage in excess of 1¢ per gallon as compared with a small refiner entitlement seller with higher run levels.

The amendments proposed hereby would be effected by amending paragraph (e) of § 211.67, which currently sets forth the small refiner bias and by revoking Special Rule No. 6. In addition to the limitation of the small refiner exemption as described above, the proposed amendments to § 211.67(e) also incorporate the provisions of the special rule implementing the exemption and those which provide that entitlement sellers and purchasers bear the effects of the exemption on a proportionate basis.

Section 211.67(e) as proposed to be amended additionally incorporates the limitation (set forth in the special rule) on the volume of old oil receipts as to which the exemption is applicable, but makes provision for additional old oil receipts pursuant to contracts for federal royalty oil under the program administered by the Department of the Interior. This provision has also been extended to limit otherwise exempt entitlement purchase obligations attributable to receipts of domestic upper tier crude oil, and refiners that are potential beneficiaries of the exemption are required to separately identify in their monthly reports volumes of domestic crude oil to which the purchase exemption would not apply under this provision. FEA hereby advises refiners that this particular proposed amendment (as well as the clarifying amendment referred to below) should also be considered as proposals to amend Special Rule No. 6 in the event that no amendment to § 211.67(e) is made pursuant to this rulemaking, since in this latter case the Special Rule would be required to remain in effect.

Section 211.67(e)(4)(i) of the proposal also clarifies that the exemption will first cease to apply to a firm the refining capacity of which has exceeded 100,000 barrels per day after January 1, 1975 with respect to payments due in the month in which the capacity increase is effective.

PROPOSED LIMITATION AS TO SMALL REFINER BIAS

FEA has also proposed herein a limitation on the receipt of bias entitlements by a small refiner (whether a purchaser or seller of entitlements) as to any volumes of crude runs processed for the account of that small refiner by another refiner, where the crude oil processed is first purchased from the other refiner performing the processing and the refined products are then sold back, directly or indirectly, to that other refiner. This proposal is intended to prevent refiners from entering into processing agreements to process crude oil for a small refiner for no valid business purpose other than obtaining a portion of the benefits of the small refiner bias. Provision has also been made for identification of volumes attributable to such a processing agreement on the refiners' monthly report.

FURTHER REQUEST FOR COMMENTS

For the written comment and public hearing procedures on this proposal, FEA solicits specific information both

from small refiners that are entitlement sellers and those that are exempt purchasers as to the current competitive conditions created by the exemption as implemented by Special Rule No. 6. In addition, FEA invites comments on whether the amount chosen as constituting an unfair economic or competitive advantage as among small refiners is the proper figure for this purpose.

FEA also invites comments on whether the regulations implementing the small refiner purchase exemption should be amended in a manner so that both small refiner entitlement purchasers and small refiner entitlement sellers would receive equivalent benefits. This procedure could be accomplished simply by increasing the amount of the small refiner bias applicable to all small refiners, thereby keeping all small refiners on the same competitive basis. Although this approach eliminates the special treatment afforded small refiner entitlement purchasers under the exemption in section 4(e) of the EPAA, it may comport more fully with the general concern as to the competitive viability of small refiners expressed throughout the EPAA.

FEA is also seriously evaluating the possibility of permitting all small refiners with a capacity less than 10,000 barrels a day to continue to receive the benefits of the exemption without any limitations other than with respect to permitted levels of domestic crude oil receipts to which the exemption would be applicable (i.e., as set forth in section 2(c) of the Special Rule and § 211.67(e) (4) (iii) of the proposal). FEA believes that firms of this size may not constitute significant factors in the market, and that allowing them the full exemption may have no adverse competitive implications for other small refiners. In addition, FEA is concerned that if the exemption were limited as to these firms, many of them (as has been the case previously) would be required to file for exception relief, which would increase to a significant extent the agency's burdens in administering the program.

Finally, assuming that FEA adopts a final rule to implement this proposal, comments are requested on the manner in which FEA's exceptions procedures should operate in the future. Specifically, comments are invited as to whether exception decisions should be made effective for longer periods than have normally been provided for by FEA, so that firms applying for exception decisions would be able more effectively to plan their business operations, and as to whether any other specific procedures related to the filing of an exception application should be facilitated. All firms that intend to file for exception relief if this proposal is adopted should so file by April 1, 1976 to enable such relief to be effective for March 1976 entitlements.

WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the subject matter set forth in this notice to Executive Communications,

Room 3309, Federal Energy Administration, Box GC, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Modification of Small Refiner Entitlement Purchase Exemption." Fifteen copies should be submitted. All comments received by March 24, 1976, and all relevant information, will be considered by the FEA in any final decisions on the matters set forth herein. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

The public hearing will be held at 9:30 a.m. on March 23, 1976, and will be continued, if necessary, on March 24, 1976 in Room 2105, 2000 M Street, NW., Washington, D.C.

Any person who has an interest in the subject matter of this notice of proposed rulemaking or who is a representative of a group or class of persons that has such an interest, may make a written request or an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., March 16, 1976.

Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through March 22, 1976. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.d.t., March 18, 1976, and must submit 100 copies of his or her statement to Regulations Management, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. before 4:30 p.m., e.d.t., on March 22, 1976.

FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial state-

ments were made and will be subject to time limitations.

Any interested persons may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEA before 4:30 p.m., e.d.t., March 19, 1976. Any person who makes an oral presentation and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer, FEA, or the presiding officer if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c) (2) of the Federal Energy Administration Act of 1974, (Pub. L. 93-275) a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 27, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend Part 211, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 28, 1976.

DAVID G. WILSON,
Acting General Counsel.

1. Section 211.67 is revised in paragraph (e) to read as follows:

§ 211.67 Allocation of old oil.

(e) *Entitlement adjustments and purchase exemption for small refiners.*—(1) *Small refiner bias.* In addition to the number of entitlements issuable under paragraph (a) of this section, subject to the limitation set forth in subparagraph (2) of this paragraph, each small refiner with a daily average volume of crude oil runs to stills of less than 175,000 barrels for a particular month shall be issued the following number of additional entitlements for each day of that month: (i) For each small refiner with a daily average volume of crude oil runs to stills of

100,000 to 175,000 barrels, 1,238 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 100 by 16.7733; (ii) for each small refiner with a daily average volume of crude oil runs to stills of 30,000 to 100,000 barrels, 1,690 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 30 by 6.1714; (iii) for each small refiner with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels, 1,238 entitlements plus the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 10 by 22.6; and (iv) for each small refiner with a daily average volume of crude oil runs to stills of zero to 10,000 barrels, 123.8 entitlements for each 1,000 barrels of that small refiner's daily average volume of crude oil runs to stills.

(2) *Limitation of small refiner bias.* No entitlements shall be issuable under subparagraph (1) of this paragraph with respect to any volume of a small refiner's crude oil runs to stills attributable to a processing agreement for the account of that small refiner with another refiner where the crude oil processed pursuant to that processing agreement is purchased from and the refined products produced under that agreement are sold, directly or indirectly, to that other refiner.

(3) *Reduction in entitlement purchase requirements for certain small refiners.* Subject to the limitations set forth in subparagraph (4) of this paragraph, entitlement purchase obligations of small refiners shall be reduced as follows:

(i) Each small refiner with a volume of crude oil runs to stills of 50,000 barrels per day or less in the month concerned, that would otherwise be required to purchase entitlements under § 211.67 (b), shall not be required to purchase any entitlements for the month of March 1976 and each following month;

(ii) Each small refiner with a volume of crude oil runs to stills in excess of 50,000 barrels per day in the month concerned, that is required to purchase entitlements under § 211.67 (b), shall not be required to purchase a number of entitlements for the month of March 1976 and each following month which is in the same proportion to the total number of entitlements otherwise required to be purchased by that refiner under § 211.67 (b) for that month that 50,000 barrels per day is to the daily average volume of that refiner's crude oil runs to stills for that month; and

(iii) The exemption from the purchase obligations of § 211.67 (b) provided for by this subparagraph shall be given effect in the calculations under § 211.67 by proportionately increasing entitlement purchase and reducing entitlement sale obligations.

(4) *Applicability of entitlement purchase exemption.* The provisions of subparagraph (3) of this paragraph:

(i) Shall only exempt payments attributable to purchase obligations under § 211.67 (b) for refiners whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not on January 1, 1975, or at any time thereafter does not, exceed 100,000 barrels per day;

(ii) Shall in no event exempt from the requirements of § 211.67 (b) entitlement purchase obligations related to volumes of old oil in excess of 50,000 barrels per day included in a refiner's adjusted crude oil receipts for a particular month;

(iii) Shall in no event exempt from the requirements of § 211.67 (b) entitlement purchase obligations related to volumes of domestic crude oil (except for volumes purchased under Parts 225 and 225a, Chapter II of Title 30, Code of Federal Regulations) included in a refiner's adjusted crude oil receipts for a particular month where the volumes are attributable to a processing agreement, an exchange or purchase and sale agreement involving crude oil or refined products, a purchase agreement for domestic crude oil, or any other agreement or arrangement having similar effect, and where such agreement or arrangement was not in effect on December 1, 1975 and the volumes of domestic crude oil subject to the agreement or arrangement were not delivered, sold or otherwise transferred in the month December 1975 in substantially the regular monthly volumes and in the normal manner contemplated by the agreement or arrangement; and

(iv) shall in no event exempt from the requirements of § 211.67 (b) entitlement purchase obligations of a small refiner so as to result in a reduction in the crude oil costs for that small refiner (as they would otherwise be determined under this section) from the obligations so exempted in excess of one cent (1¢) per gallon based on the volume of that small refiner's crude oil runs to stills in the particular month.

(5) *Reporting of crude oil runs to stills volumes not eligible for bias and domestic crude oil receipts not eligible for entitlement purchase exemption.* Each small refiner shall separately identify in its reports filed pursuant to § 211.66 (h) (i) any volumes of its crude oil runs to stills not eligible (under the provisions of subparagraph (2) of this paragraph) for small refiner bias entitlements, and (ii) any volumes of domestic crude oil as to which entitlement purchase obligations are not exempted under subparagraph (4) (iii) of this paragraph. The information required to be reported under clause (ii) of this subparagraph shall be supplied only by those firms that qualify for the small refiner purchase exemption under subparagraphs (3) and (4) of this paragraph.

2. Special Rule No. 6 in the Appendix to Subpart C of Part 211 is revoked.

[FR Doc. 76-6205 Filed 3-1-76; 12:16 pm]

POSTAL SERVICE

[39 CFR Part 111]

SEXUALLY ORIENTED ADVERTISEMENTS

Increased Cost of List of Persons

Under the provisions of 39 CFR 111.3 the Postal Service proposes to amend 123.523 and 123.524 and 123.541-123.543 of the Postal Service Manual, primarily to change the method of recovering the costs of making available the list of persons who wish not to receive sexually oriented advertisements (hereinafter the SOA list).

The Sexually Oriented Advertisements program was established in 1971 following the enactment of sections 3010 and 3011 of title 39, United States Code, as a part of Pub. L. 91-375. Experience with the administration of the program during the ensuing five years has shown the need for certain changes in the implementing regulations. The Postal Service proposes to make the changes set forth below and invites public comment, particularly with respect to the change proposed in the method of recovering the costs of making available the SOA list.

Since March, 1971, persons wishing to obtain the SOA list have been able to obtain it in either of two ways. The first has been by annual subscription at a fee to be computed at the end of each year by prorating the net cost of the program among the subscribers up to a maximum of \$10,000 per subscriber per year. The second has been by the purchase each month by the cumulative or supplemental list compiled that month, or of a portion of the SOA list, at a fee of one-half of one cent for each page of computer printout of the list or portion thereof desired.

The monthly purchase method has not been entirely satisfactory to the purchasers of the SOA list because it requires that a separate request be made each month and because non-subscribers have not had the privilege to purchase the list in the form of magnetic tape, but only as copies of pages of computer printouts. Similarly it has been less than satisfactory to the Postal Service because it has permitted the recovery of only a small fraction of the costs of the program. The Postal Service proposes to correct these deficiencies by revising the manner in which the annual subscription fee is computed.

At the time the current annual subscription regulations were adopted, the Postal Service had no experience with either the costs of maintaining and distributing the list or the demand for it. As a result, the regulations provided that the charge was to be determined at the end of the subscription year based on the year's actual experience. A maximum fee was set to provide a measure of assurance as to price for subscribers. The monthly purchase method was established to provide a low cost option for those non-subscribers unable to bear the potential economic burden of an annual subscription fee of \$10,000. The effect of the regulations, however, has been to make the SOA list available in the form

of computer printout at such a low price in relation to the annual subscription method that it has become the only method chosen by mailers.

Experience gained over the past five years indicates that there is sufficient stability in both cost and demand to base an annual fee for a year on the preceding year's experience. It is proposed, therefore, to convert the optional subscription fee to a mandatory service fee determined by dividing the number of buyers for the previous calendar year into the total cost to the Postal Service for that year of compiling, processing, printing and distributing the SOA list, rounded to the nearest hundred dollars. Because the full amount of the annual service fee will be known by the mailers before they incur it, and because it should be substantially less expensive than the original maximum subscription fee (\$1,500 at an annual rate for calendar year 1976 in contrast to the previous charge of \$10,000), it is considered not an unreasonable burden on the commercial mailers having need of the SOA list. Equally important, it is consistent with the intent of the statute that the Postal Service recover its costs of maintaining the SOA list and making it available for its intended purpose. 39 U.S.C. 3010(b). Experience has shown, moreover, that there is no appreciable demand for a portion of the list, as distinguished from a supplement to it. It is proposed, therefore, to discontinue the option to purchase a portion of the list.

To permit a reasonable period for public comment and for the orderly transition to such procedures as may be adopted following consideration of the proposed regulations in the light of those comments, it is proposed that the fee for the 1976 program year will be prorated to the actual effective date.

Other minor changes are proposed in the handling of applications received by the Postal Service from persons wishing to be included in the SOA list. The most significant among them are to decrease the frequency of mailings of applications by post offices to Postal Service Headquarters from daily to weekly and the termination of the practice of retaining completed applications after the individuals' names have been added to the SOA list.

Comments on the proposed regulations should be submitted in writing to the Director, Office of Mail Classification, Department of Rates & Classification, United States Postal Service, Washington, D.C. 20260. Persons may wish to include in their comments information as to the extent to which use is made of the SOA list in their operations, supporting data as to any economic impact of the proposed changes on their operations, and views on possible measures to ease any economic impact. All comments received on or before April 3, 1976, will be considered by the Postal Service prior to taking action on the proposed changes.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Postal Service Manual:

PART 123—NONMAILABLE MATTER—WRITING, PRINTED AND GRAPHIC MATTER

In section 123.5 of the Postal Service Manual revise .523 and .524 and .541-.543 to read as follows:

123.5 Sexually oriented advertisements.

.52 Application for listing.

.523 Each postmaster shall transmit all applications received at his post office to the Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260 on a weekly basis.

.524 The Office of Mail Classification, Rates and Classification Department, as soon as practical after receipt of a Form 2201, shall place the customer's name and address, and the names and addresses of his minor children if any are included on the application, on the Postal Service's List (hereafter, "List") of persons desiring not to receive sexually oriented advertising. This information will be processed and the List updated monthly. The 30-day period provided by section 3010(b) starts on the effective date of the List on which the person's name first appears.

.54 Availability of postal service lists.

.541 Copies of the List and or periodic amendments thereto shall be available to any person upon payment of the annual service fee necessary to defray the cost of compiling and maintaining the list and making it available for uses permitted by section 3010(c). A program year runs from January 1 through December 31. Buyers will receive a copy of the List and monthly updates of additions and deletions to the List for the year in which the purchase is made. The List may be ordered in the form of reduced reproduction of computer printout or magnetic tape. Further information on the format of the tapes may be obtained from the Director, Office of Mail Classification.

.542 The annual service fee will be determined by dividing the number of buyers for the previous calendar year into the total cost to the Postal Service of compiling, processing, printing, and distributing the List. The service fee for program year 1976 has been determined to be \$1,500 per list buyer. This fee for 1976 will be prorated for the period from the effective date of this section until the end of the program year.

.543 Requests for the List shall be submitted to the Director, Office of Mail Classification, Rates & Classification Department, U.S. Postal Service, Washington, D.C. 20260. A certified or cashier's check must accompany the request. All checks must be payable to the U.S. Postal Service.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published on adoption of this proposal.

(39 U.S.C. 401, 3010)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 76-6237 Filed 3-3-76; 8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

ANNUAL INCOME

Domestic Volunteer Service Program

The Administrator of Veterans' Affairs proposes regulatory changes in Part 3 of Title 38, Code of Federal Regulations, relating to the computation of income in claims for benefits.

Pub. L. 93-113 (87 Stat. 394), the Domestic Volunteer Service Act of 1973, authorized a number of volunteer service programs to be administered by the ACTION Agency. The act provided that payments to volunteers under these programs would not reduce or eliminate the level of or eligibility for benefits under any government program. This provision has been interpreted as requiring exclusion of payments under these programs from consideration as income for the purpose of laws administered by the Veterans Administration. Sections 3.261 and 3.262 of Title 38, Code of Federal Regulations, were amended to provide for excluding income under the ACTION programs in claims for pension, compensation and dependency and indemnity compensation. At the time of these amendments the Senior Companion Program, also authorized by Pub. L. 93-113, was not an active program and was not included. It is now proposed to amend the regulations to include this program which has been activated.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before April 2, 1976, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that the amendments would be effective October 1, 1973, the effective date of Pub. L. 94-113.

1. In § 3.261, paragraph (a) (33) is revised to read as follows:

§ 3.261 Character of income; exclusions and estates.

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected veterans, widows, and children)	Pension; Public Law 86-211 (veterans, widows, and children)	See—
(a) Income:					
(83) The following programs administered by the ACTION Agency:					
Foster Grandparent Program and Older Americans Community Service Programs payments (Public Law 93-29; 87 Stat. 55).	Excluded...	Excluded...	Excluded...	Excluded...	Sec. 3.262(q)(1):
Volunteers in Service to America (VISTA), University Year for ACTION (UYA), Program for Local Services (PLS), ACTION Cooperative Volunteers (ACV), Foster Grandparent Program (FGP), and Older American Community Service Programs, Retired Senior Volunteer Program (RSVP), Senior Companion Program (Public Law 93-113; 87 Stat. 394).	do.....	do.....	do.....	do.....	Sec. 3.262(q)(2):

2. In § 3.262, paragraphs (o) introduction, (p) and (q) (2) are revised to read as follows:

§ 3.262 Evaluation of income.

(o) *Final expenses of veteran or parent's spouse; dependency and indemnity compensation.* In claims for dependency and indemnity compensation there will be excluded from the income of a parent, as provided in paragraph (p) of this section, amounts equal to amounts paid by the parent for:

(p) *Final expenses; year of exclusion.* For the purpose of paragraphs (m), (n) and (o) of this section, in the absence of contradictory information, the claimant's statement will be accepted as to the nature, amount and date of payment, and identity of the creditor. Except as provided in this paragraph, payments will be deducted from annual income for the year in which such payments are made. Payments made by a veteran, the wife or husband of a veteran, widow, widower, child or, in dependency and indemnity compensation claims, by a parent during the calendar year following the year in which the veteran, spouse or child died may be deducted from the claimant's income for the year of last illness or burial if this deduction is advantageous to the claimant.

(q) *Volunteer programs.* * * *

(2) *Payments under domestic volunteer service act programs.* Effective October 1, 1973, compensation or reimbursement received under a Domestic Volunteer Service Act Program (includ-

ing Volunteers in Service to America (VISTA), University Year for ACTION (UYA), Program for Local Services (PLS), ACTION Cooperative Volunteers (ACV), Foster Grandparent Program (FGP) and Older American Community Service Program, Retired Senior Volunteer Program (RSVP), Senior Companion Program, Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE), will be excluded from income in claims for compensation, pension and dependency and indemnity compensation. (Pub. L. 93-113; 87 Stat. 394)

Approved: February 27, 1976.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.76-6149 Filed 3-3-76; 8:45 am]

INTERSTATE COMMERCE
COMMISSION

[49 CFR PARTS 1048, 1049]

[Ex Parte No. MC-37 (Sub-No. 26)]

Proposed Commercial Zones and Terminal
Areas

MARCH 1, 1976.

Notice to all parties: At the request of Everett Hutchinson, representative of Fulbright & Jaworski, the time for filing comments in the above-entitled proceeding has been extended from March 15, 1976, to April 14, 1976. No further extension.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6261 Filed 3-3-76; 8:45 am]

#

Judgment, the Court will appoint a trustee who shall have authority to make the divestiture. The proposed Judgment also enjoins Guardian from acquiring any interest in any entity engaged in the replacement of auto glass in Cuyahoga and five neighboring counties for ten years from the date of entry of the proposed Judgment.

Public comment is invited on or before May 3 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Great Lakes Field Office, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO EASTERN
DIVISION

United States of America, Plaintiff, v.
Guardian Industries Corp., Defendant. Civil
Action No. C73-383, Judge William K.
Thomas, Filed: February 24, 1976.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

For the Plaintiff:

UNITED STATES OF AMERICA

Thomas E. Kauper, Assistant Attorney General, Baddia J. Rashid, Charles F. B. McAleer, John A. Weedon, Robert J. Ludwig, Attorneys, Department of Justice.

Frederick M. Coleman, United States Attorney.

David H. Hills, Joan Farragher Sullivan, Susan B. Cyphert, Dale F. Shapiro, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: 216-522-4084.

Dated: February 24, 1976.

For the Defendant:

GUARDIAN INDUSTRIES CORP., KAHN, KLEINMAN, YANOWITZ & ARNSON

SEELDON BERNES,
1300 Bond Court Building,
Cleveland, Ohio 44114.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO EASTERN
DIVISION

United States of America, Plaintiff, v.
Guardian Industries Corp., Defendant. Civil
Action No. C73-383, Judge William K.
Thomas.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on April 16, 1973, and defendant having appeared and filed its Answer to the Complaint denying the substantive allegations thereof, and the plaintiff and the defendant, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue of fact or law;

Now, therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I. This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendant under section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. 18), commonly known as the Clayton Act, as amended. Entry of this Final Judgment is in the public interest.

II. As used in this Final Judgment:

(A) "Person" means any individual, partnership, corporation, association or other legal or business entity;

(B) "Guardian" means the defendant Guardian Industries Corp.;

(C) "Replacement auto glass" means windshields, backlites, sidelites, vents, quarterlites, and all other types of glass, other than headlights or taillights, used in passenger and truck automotive vehicles, in place of broken, defective or otherwise unsatisfactory auto glass;

(D) "The replacement of auto glass" means the business of installing replacement auto glass and includes the combined operation of (1) providing replacement auto glass and all other materials, e.g., the installation kit, and (2) installing replacement glass;

(E) "Glass shop" means the location where any person is engaged in the replacement of auto glass, and includes the goodwill, business location, vehicles, customer lists, and all other assets used in the operation thereof;

(F) "Affiliate" means any person that controls or has power to control Guardian or is controlled by or is under common control with Guardian;

(G) "Purchaser" means any person who acquires the glass shops pursuant to this Final Judgment.

III. The provisions of this Final Judgment applicable to Guardian shall also apply to each of its officers, directors, agents, employees, affiliates, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to any purchaser as defined in section II(G) of this Final Judgment.

IV. (A) Guardian shall divest, with the prior approval of the plaintiff, as viable, going concerns, the following Guardian glass shops:

- (1) 5220 Warrensville Center Road, Maple Heights, Ohio;
- (2) 1379 W. 117th Street, Cleveland, Ohio;
- (3) 1622 Broadway, Lorain, Ohio;
- (4) 7591 Mentor Avenue, Mentor, Ohio; and
- (5) 464 West Avenue, Tallmadge, Ohio.

The divestiture shall be absolute and unconditional.

(B) Within eighteen (18) months from the date of entry of this Final Judgment, Guardian shall make the divestiture ordered by this Final Judgment to a single purchaser.

(C) If the divestiture ordered in this Final Judgment has not been accomplished by Guardian within eighteen (18) months from the date of entry of this Final Judgment, the Court shall appoint a trustee who shall accomplish the divestiture ordered by this Final Judgment. Plaintiff may apply to the Court for the appointment of a trustee at any time following fifteen (15) months after the date of entry of this Final Judgment. The trustee shall be ordered to sell as a going business the glass shops and other assets to be divested to a person or persons satisfactory to the Plaintiff. Such sale shall be subject to confirmation by the Court after thirty (30) days' notice in writing by the trustee to the parties of the complete details of the proposed sale. Within such thirty (30) day period the parties shall have the right to object to such sale and shall have the right to be heard thereon.

In the event that the trustee is unable to sell the glass shops and other assets to be divested as a going business within eighteen (18) months after his appointment, the trustee shall apply to the Court for additional instructions and/or authority, which may include, if the Court deems appropriate, but shall not be limited to (a) to manage the business of said glass shops; (b) to receive a conveyance of Guardian's interest in said glass shops and other assets to be divested; and/or (c) to sell the assets of said glass shops individually or in groups. All of said fees and expenses of the trusteeship, including reasonable attorneys' fees, shall be paid by Guardian. Nothing in this Section IV(C) shall preclude the Court from finding Guardian in contempt of this Final Judgment.

(D) The divestiture ordered by this Final Judgment shall include all trade names and trademarks associated with any of the names:

- (1) Acme Glass;
 - (2) Acme Glass Co.;
 - (3) B & B;
 - (4) B & B Acme Glass;
 - (5) B & B Acme Glass Co.;
 - (6) B & B & Acme Glass Co.;
 - (7) B & B Auto Glass Co.;
 - (8) B & B Bruening Auto Glass;
 - (9) B & B Bruening Auto Glass Co.;
 - (10) B & B Glass Co.;
 - (11) Beachland;
 - (12) Beachland Glass;
 - (13) Beachland Glass Co.;
 - (14) Beachland Glass of Lake County, Inc.
- Guardian shall not adopt or use any such trade name or trademark or trade name or trademark similar thereto.

(E) Guardian shall abandon the use of the telephone number 216-431-3400 upon divestiture of the Guardian glass shops listed in Section IV(A) hereof or upon publication and distribution of the Cleveland Metropolitan Area Yellow Pages 1977-1978 ("1977 Yellow Pages"), whichever shall first occur. Until such abandonment, telephone calls to 216-431-3400 shall be answered "B & B-Guardian" or "Guardian-B & B". Said telephone number shall not be published in the Cleveland Metropolitan Area Yellow Pages 1976-1977 ("1976 Yellow Pages") and after publication and distribution of said 1976 Yellow Pages, said telephone number shall not be used in any advertising or other written material published or distributed by Guardian. Guardian shall cause an advertisement under the name "B & B" to be placed in the 1976 Yellow Pages under the heading "Glass-Automobile" for the Guardian glass shops to be divested pursuant to Section IV(A) hereof located within the area covered by said 1976 Yellow Pages, which advertisement shall contain a new telephone number or new telephone numbers applicable to said

glass shops. Telephone calls to such number or numbers shall be answered "B & B." Guardian shall place an advertisement under the name "Guardian" in said 1976 Yellow Pages under the headings "Glass" and "Glass-Automobile" for the glass shops to be retained by it located in the area covered by said 1976 Yellow Pages, which advertisement shall contain no mention of any of the names listed in Section IV(D) hereof nor any of the telephone numbers referred to in this Section IV(E). Prior to divestiture of the Guardian glass shops listed in Section IV(A) hereof, no advertising, other than that contained in the 1976 Yellow Pages, and no other written material shall be published or distributed by Guardian to publicize Guardian glass shops unless advertisements and written material equal thereto are distributed to the same recipients by Guardian to publicize B & B glass shops. Until divestiture has been completed, Guardian shall continue to insert advertisements of equal size under the heading "Glass-Automobile" in the Cleveland Metropolitan Area Yellow Pages for such of the glass shops to be divested and such of the Guardian glass shops to be retained as are located within the area covered by said Cleveland Metropolitan Area Yellow Pages. Except for advertising in the Yellow Pages, the inclusion by Guardian of Guardian's name as parent corporation of B & B, Guardian's logo and/or Guardian's name in relation to products offered for sale by B & B in advertising and written material published and distributed to publicize B & B shall not be deemed a violation of this provision. All replacement auto glass jobs called in to the telephone number 216-431-3400 will be assigned by Guardian to the location nearest to the job site, regardless of whether the location is to be divested or retained. Telephone callers to 216-431-3400 or to any new numbers listed in the 1976 Yellow Pages shall not be advised of any change in telephone numbers except by referral to the 1976 Yellow Pages. The divestiture ordered by this Final Judgment shall include the following telephone numbers:

Lorain, 216-244-3229
 Elyria, 216-323-7198
 Mentor, 216-946-0400
 Akron, 216-633-6744

Guardian shall not adopt or use any telephone numbers similar to those contained in this Section IV(E). Until divestiture has been completed, Guardian shall continue to insert advertisements for the glass shops to be divested located outside of Cuyahoga County in the Yellow Pages covering such areas under such headings as advertisements are presently contained employing such of the trade names listed in Section IV(D) hereof as have heretofore been used in such Yellow Pages.

(F) No divestiture of Guardian glass shops listed in paragraph (A) above shall be made to any person who is at the time of the divestiture, an officer, director, agent, employee, affiliate or subsidiary of Guardian without prior approval by the plaintiff. Nor may Guardian employ any person who owns or operates all or any portion of the divested glass shops.

(G) Guardian shall for a period of one (1) year from the completion of this divestiture pursuant to this Final Judgment, refrain from urging, suggesting, coercing or attempting to persuade any personnel of the glass shops divested, to terminate his employment with the purchaser of such glass shops so as to accept employment with Guardian or otherwise, and Guardian shall release, free and clear from any employment contract, any Guardian personnel who request such a release in order to become associated with the purchaser.

(H) Guardian is enjoined and restrained from knowingly taking any action, directly

or indirectly, which will impair or impede, prior to its divestiture, the viability of any of the glass shops being divested under this Final Judgment, but nothing contained in this Section IV(H) shall prevent Guardian from competing with any of said glass shops after divestiture of same.

(I) Guardian shall make known the availability of the glass shops to be divested by ordinary and usual means for the sale of a business, and shall furnish to all *bona fide* prospective purchasers on an equal and nondiscriminatory basis all necessary information, including business records, regarding the said glass shops, and shall permit such prospective purchasers to have access to and to make such inspections thereof as are reasonably necessary for the above purpose, provided, however, that in the event that any business record contains information regarding glass shops to be retained by Guardian and information regarding glass shops to be divested, then, in lieu of furnishing such record, Guardian may extract therefrom the information contained therein relating to the glass shops to be divested and furnish an extract of the same to *bona fide* prospective purchasers.

(J) In the event that Guardian is unable to maintain its tenancy of the premises of any glass shop to be divested by Guardian pursuant to Section IV(A) hereof, Guardian shall acquire a comparable location, considering size, facilities, traffic flow, parking and storage areas, rental, and availability of other locations, within the same area as that served by the premises as to which its tenancy is to be terminated, and divest such new location in lieu thereof. Guardian shall furnish the plaintiff ten (10) days' prior notice in writing of its acquisition of such comparable location.

V. Not less than sixty (60) days prior to the closing of any divestiture pursuant to this Final Judgment, Guardian shall furnish in writing to the plaintiff the complete details of the proposed transaction. Within thirty (30) days after the receipt of such information, plaintiff may request in writing additional information concerning the proposed transaction which shall be promptly furnished in writing by Guardian. If no request for additional information is made, plaintiff shall advise Guardian in writing no later than thirty (30) days prior to the scheduled closing date whether it has any objection to the proposed divestiture. If plaintiff requests additional information, it shall advise Guardian in writing within thirty (30) days after receipt of such additional information, or within thirty (30) days of receipt of a written statement from Guardian that it does not have the requested information, whether plaintiff has any objection to the proposed divestiture. If plaintiff objects, the proposed divestiture shall not be consummated unless Guardian obtains the approval of the Court or the plaintiff's objection is withdrawn.

VI. (A) All mobile units and other vehicles of whatever type, and all other equipment, which Guardian uses in the normal and usual day-to-day operation of the glass shops to be divested, shall be specifically included in and be a part of the divestiture ordered by this Final Judgment. The vehicles and other equipment listed in Appendices A and B, respectively (or replacements of the same made in the ordinary course of business) shall be deemed to be included in, without necessarily constituting the total of, the ve-

hicles and other equipment which Guardian uses in the normal and usual day-to-day operation of the glass shops to be divested.

(B) Guardian shall provide each *bona fide* prospective purchaser with a list of Guardian's employees at the glass shops to be divested, as of November 20, 1975 and as of the date of the prospective purchaser's request for such a list, and such purchaser shall be permitted, subject to the reasonable convenience of Guardian and without restraint or interference from Guardian, to interview these employees and to offer employment to as many of these employees as such prospective purchaser desires.

(C) Guardian is enjoined and restrained for three (3) years from the completion of the divestiture ordered by this Final Judgment from opening or acquiring any glass shop within a three (3) mile radius of any glass shop divested pursuant to this Final Judgment so long as the purchaser thereof under this Final Judgment operates such glass shop or any replacement for such glass shop located within a three (3) mile radius of such divested shop.

(D) Guardian is enjoined and restrained for a period of three (3) years from the completion of the divestiture ordered by this Final Judgment from owning or leasing more than fifty (50) vehicles for the conduct of its glass business in the area within the counties of Cuyahoga, Lake, Geauga, Summit, Medina and Lorain. No other vehicles shall regularly be used by Guardian or by Guardian's employees on behalf of Guardian to service this area.

(E) Guardian shall open no new glass shop in the area within the counties of Cuyahoga, Lake, Geauga, Summit, Medina and Lorain until the divestiture ordered by this Final Judgment has been completed.

VII. None of the glass shops divested pursuant to this Final Judgment shall be reacquired by Guardian provided, however, that Guardian may acquire and enforce any *bona fide* lien, mortgage, deed of trust or other form of security on all or any of the glass shops divested given for the purpose of securing to Guardian payment of any unpaid portion of the purchase price or performance of the divestiture transaction. In the event Guardian as a result of the enforcement of any such *bona fide* lien, mortgage, deed of trust or other form of security, reacquires possession of any of the divested glass shops, Guardian shall so notify plaintiff within thirty (30) days of such repossession, and shall within one (1) year thereafter divest the reacquired glass shops as a viable, going business in accordance with the provisions of this Final Judgment.

VIII. Guardian is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring, directly or indirectly, any of the capital stock, assets, or goodwill of any person engaged in the replacement of auto glass in Cuyahoga, Lake, Geauga, Summit, Medina and Lorain Counties, Ohio. Guardian is further enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring, directly or indirectly, any of the capital stock, assets, or goodwill of any person engaged in the replacement of auto glass

anywhere else in the United States except upon sixty (60) days' notice to the plaintiff.

IX. Following the entry of this Final Judgment and continuing until the divestiture required by this Final Judgment has been completed, Guardian shall submit written reports to the plaintiff every three (3) months describing in detail the efforts made by Guardian to comply with the provisions of this Final Judgment.

X. (A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted (1) access, during the office hours of defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant relating to any of the matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant and without restraint

or interference from it, to interview officers and employees of defendant, who may have counsel present, regarding any such matters.

(B) Defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit reports in writing to the Department of Justice with respect to any matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than duly authorized representatives of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

UNITED STATES DISTRICT JUDGE

APPENDIX A.—Vehicles to be divested

Year—make and model	Unit No.	Serial No.	License No.	Mileage (as of Oct. 21, 1975)
5220 Warrensville Center Rd.:				
1. 1971 Ford 4-door station wagon	18	1W70H102803	BB419	95,000
2. 1972 Chevy van	36	CGE152U160650	4X148	100,000
1379 West 117th St.:				
1. 1972 Chevy van	46	CGE152U60536	4X150	63,000
Lorain, Ohio:				
1. 1972 Ford sedan	75	2W58H197367	BN-232	75,000
2. 1974 Chevy step van	29	CPY254U305761	6-C-1472	10,000
3. 1973 Chevy van with glazing rack	3	CGX153U152257	4-X-139	60,000
Mentor, Ohio:				
1. 1971 Ford van with glazing rack	47	E24GHK83757	6C1276	34,000
2. 1971 Ford pickup with glazing rack	32	F25YCL05921	6C5338	121,000
3. 1971 Ford van with glazing rack	56	E24GHL85916	4BE563	129,000
Tallmadge, Ohio:				
1. 1973 Chevy station wagon	53	1L35H311321125	BG4069	55,000
2. 1974 Chevy pickup with glazing rack	20	CCY244F381587	5G9156	48,400
3. 1969 Ford van with glazing rack	49	E24GHF96747	4X140	100,000

APPENDIX B.—EQUIPMENT AT LOCATIONS TO BE DIVESTED

WARRENSVILLE CENTER RD.

1 Upright Belt Sander, 1 Work Bench, Glass Racks, Special Power Tools, 1 Desk and Chair, 1 Filing Cabinet, Waiting Room Furniture, 1 Calculator, and 1 Cutting Table.

W. 117TH ST.

1 Upright Belt Sander, 1 Work Bench, Glass Racks, Special Power Tools, 1 Desk and Chair, 1 Filing Cabinet, Waiting Room Furniture, and 1 Calculator.

LORAIN

1 Cutting Table, 1 Upright Belt Sander, Glass Racks, Portable Power Tools, 1 Grinding Machine, Special Glass Tools, 2 Desks and Chairs, 2 Filing Cabinets, and Waiting Room Furniture.

MENTOR

2 Cutting Tables, 1 Work Bench, Glass Racks, 1 Upright Belt Sander, 1 Air Compressor, Portable Power Tools, Special Glazing Tools, 2 Desks and Chairs, 2 Filing Cabinets, Waiting Room Furniture, and 1 Calculator.

TALLMADGE

1 Upright Belt Sander, Glass Racks, 2 Cutting Tables, Special Glazing Tools, Portable Power Tools, 2 Desks and Chairs, Calculator, 1 Filing Cabinet, Waiting Room Furniture, and 1 Grinder.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

United States of America, Plaintiff, v. Guardian Industries Corp., Defendant. Civil Action No. C73-383, Judge William K. Thomas, Filed:

COMPETITIVE IMPACT STATEMENT

This Statement is made pursuant to the requirements of Section 5 of the Act of Congress of October 15, 1914, as amended, (15 U.S.C. § 16), commonly known as the Antitrust Procedures and Penalties Act.

I. Nature and purpose of the proceeding. 1. On April 16, 1973, a civil action was instituted against Guardian Industries Corp. under section 15 of the Act of Congress of October 15, 1914, as amended, (15 U.S.C. 25), commonly known as the Clayton Act.

2. The purpose of the action is to prevent and restrain the continuing violation by the defendant of section 7 of the Clayton Act, as amended, (15 U.S.C. 18). The violation arose from the acquisition by Guardian Industries Corp. ("Guardian") of Glass For Cars, Inc., which operated automobile glass replacement shops under the trade names "B & B" and "B & B & Breuning Auto Glass Co." ("B & B").

II. The events giving rise to the alleged violation. 3. Automobile replacement glass consists of front windshields, backlites, sidelites, vents, quarterlites, and all other types of glass, other than headlights or taillights, used to replace broken, defective, or otherwise unsatisfactory glass used in passenger and truck automotive vehicles. The auto glass replacement business consists of the combined operations of providing the replacement glass and all other materials, and installing such glass. Replacement of auto glass is usually done in a glass shop, which may either deal directly with the owner of a vehicle or may deal with a third party, such as an automobile dealer or an auto body shop.

4. Guardian is a Michigan corporation with 1974 sales of \$100.5 million. It is engaged in manufacturing, tempering, laminating, insulating, wholesaling, and retailing of glass. In 1969, Guardian purchased Windshield Glass Center of Ohio, Inc. ("Windshield Glass Center"), a company doing business in Cuyahoga County and dealing exclusively in the replacement of auto glass. In 1971, Windshield Glass Center's sales in the replacement of auto glass in Cuyahoga County were approximately \$145,200, ranking Windshield Glass Center third, with approximately 7.0 percent of such sales. In June 1972, Guardian acquired Beachland Glass Co. ("Beachland"), a company engaged in the replacement of auto glass, with two locations in other areas of Ohio and West Virginia. In 1971, Beachland's sales in the replacement of auto glass in Cuyahoga County were approximately \$148,369, ranking Beachland second, with approximately 7.1 percent of such sales. After the acquisition of Beachland, Guardian accounted for approximately 14.1 percent of sales in the replacement of auto glass in Cuyahoga County.

5. Guardian acquired B & B in July 1972. At that time, B & B operated six glass shops in Cuyahoga County, one glass shop in Lake County, and another glass shop in Lorain County. In 1971, B & B's sales in the replacement of auto glass in Cuyahoga County were approximately \$756,170, ranking B & B first, with approximately 36.2 percent of the replacement auto glass market. As a result of the acquisition of B & B, Guardian increased its market share to approximately 50.3 percent of sales in the replacement of auto glass in Cuyahoga County.

6. The Complaint charged that the effect of Guardian's acquisition of the B & B stock substantially lessened competition in that actual competition between B & B and Guardian in the auto glass replacement business in the Cleveland area had been eliminated, and that concentration in the auto glass replacement market in that area had been increased. It was also alleged that the acquisition could have triggered other acquisitions of glass shops by auto glass wholesalers and manufacturers in that area.

III. Explanation of the proposed final judgment. 7. The proposed Final Judgment requires Guardian to divest within eighteen (18) months from the date of entry of the Judgment, five (5) named glass shops as a single business entity to one purchaser upon

terms and conditions acceptable to the Antitrust Division and the Court. If Guardian does not accomplish the divestiture within such 18-month period, the Court will appoint a trustee to do so within eighteen (18) months following his appointment. These five glass shops are to be sold as a single unit, rather than on an individual shop basis, so as to enable them to more effectively compete with Guardian and other glass shops in the area.

Guardian is also ordered to divest the trade names and trademarks for B & B and Beachland and may not thereafter adopt any similar trade names or trademarks. Guardian is further required to abandon certain telephone numbers used by the glass shops required to be divested which, in conjunction with specific restrictions to be placed upon the advertising to be used by Guardian to publicize the glass shops it will retain, are intended to facilitate the establishment of the shops to be divested as a separate entity. Abandonment by Guardian of these telephone numbers is considered essential to the successful operation of the divested glass shops because a great part of the auto glass replacement business is obtained over the telephone by insurance companies and automobile dealers. Guardian's relinquishment of these numbers should give the new entity more opportunity to effectively compete for that replacement business.

Guardian may not divest any of the glass shops to any person who is an officer, director, agent, employee, affiliate or subsidiary of Guardian without the approval of the Antitrust Division, and for one (1) year Guardian must release any personnel who requests such a release so as to become associated with the purchaser of the divested glass shops. Guardian must also provide prospective purchasers with a list of Guardian employees at the glass shops to be divested and shall permit prospective purchasers to interview such employees and to offer them employment.

All mobile units and other vehicles and equipment, which Guardian uses in the usual day-to-day operation of the glass shops to be divested, must be made a part of the divestiture ordered by the proposed Final Judgment. Inclusion of mobile units in the divestiture is desirable because a significant portion of a replacement glass shop's business is conducted through the use of mobile equipment.

The proposed Judgment enjoins Guardian for three (3) years following divestiture from opening or acquiring any glass shop within a three (3) miles radius of any glass shop divested under the Judgment. The object of this provision is to assure an available market for the new entity while at the same time not unnecessarily precluding Guardian's competition. A three mile radius is believed to offer sufficient protection to the divestee since the shops to be divested are located in areas of relatively high population concentration. The Judgment further provides that Guardian shall open no new glass shop in Cuyahoga, Lake, Geauga, Summit, Medina, and Lorain counties until divestiture has been completed.

Guardian may not for three (3) years after completion of the divestiture ordered by the Final Judgment own or lease more than 50 vehicles for the conduct of its business in the counties of Cuyahoga, Lake, Geauga, Summit, Medina, and Lorain.

The proposed Final Judgment precludes Guardian for ten (10) years from acquiring any of the assets, capital stock or goodwill of anyone engaged in the replacement of auto glass in Cuyahoga, Lake, Geauga, Summit, Medina, and Lorain Counties, and enjoins Guardian for such ten year period from ac-

quiring any capital stock, assets or goodwill of any such person elsewhere in the United States except upon sixty (60) days notice to the Antitrust Division.

Finally, the proposed Judgment provides the Antitrust Division with rights to inspect Guardian's records and to interview officers and employees of Guardian in order to determine and secure compliance with the Final Judgment.

8. The effect of this proposed Final Judgment and the divestiture thereunder will be either to add another competitor to the business of replacing auto glass in the counties of Cuyahoga, Lake, Geauga, Summit, Medina, and Lorain, or to add to the market position of a small existing competitor to enable it to compete with the larger competitors doing business therein. It could also serve to decrease concentration in the automobile glass replacement market in those counties.

IV. Remedies available to potential private plaintiffs. 9. Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages of three times the damages such persons have suffered and any other legal and equitable remedies which they would have had, were the proposed Final Judgment not entered. This proposed Final Judgment, however, may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act.

V. Procedures available for the modification of the proposed judgment. 10. Within the statutory period of sixty (60) days, (15 U.S.C. 16), of the filing of the proposed Judgment with the District Court for the Northern District of Ohio, Cleveland, Ohio, any person may comment regarding the proposed Judgment to:

John A. Weedon, Chief, Great Lakes Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Such comments and the Antitrust Division's responses thereto will be filed with the District Court and published in the FEDERAL REGISTER.

11. After the entry of the proposed Judgment, jurisdiction is retained by the United States District Court for the Northern District of Ohio, Cleveland, Ohio, to enable the parties to the Judgment to apply to the Court for modification of any of the provisions thereof.

VI. Alternatives to the proposed judgment considered by the United States. 12. An alternative to the proposed Final Judgment considered by the Antitrust Division of the Department of Justice was a full trial on the merits in order to obtain full divestiture by Guardian of all of its interest in B & B. The Antitrust Division determined that full divestiture by Guardian of all the auto glass replacement shops it had acquired was not necessary. The Division believes that the divestiture of the five (5) glass shops, located as they are in areas of high population concentration, is sufficient to dissipate the anti-competitive effects of the acquisition. In addition, there is no assurance that the Court would require full divestiture even if the government were successful in establishing the liability of defendant. Also, the Antitrust Division believes that the additional relief which might have been obtained did not warrant the substantial time and expense normally associated with a full trial on the merits. Finally, the relief contemplated by the proposed Final Judgment will be implemented more quickly than any relief obtained after a trial.

There are no materials or documents which were determinative in formulating the proposal or Consent Judgment, consequently,

none are being filed by the Plaintiff pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

John A. Weedon, David F. Hills, Susan B. Cyphert, Dale F. Shapiro, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199, Telephone: 216-522-4084.

[FR Doc.76-6185 Filed 3-3-76; 8:45 am]

Drug Enforcement Administration IMPORTATION OF CONTROLLED SUBSTANCES Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 22, 1975, Biomedical Research Branch, Division of Research, National Institute on Drug Abuse, DHEW, 11400 Rockville Pike, Rockwall Bldg., Rockville, Maryland 20852, made application to the Drug Enforcement Administration to be registered as an importer of thebaine, a basic class controlled substance in schedule II, for distribution for research unique to the material to be imported and conversion to a non-controlled product for research purposes.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than April 8, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21

CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 20, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.
[FR Doc.76-6278 Filed 3-3-76;8:45 am]

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 5, 1976, Collaborative Research, Inc., 1365 Main Street, Waltham, Massachusetts 02154, made application to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinols, a basic class controlled substance in schedule I, for the manufacture of an exempt diagnostic radioimmunoassay kit.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than April 8, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 27, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.
[FR Doc.76-6279 Filed 3-3-76;8:45 am]

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on November 20, 1975, Knauf & Tesch Co., Chilton, Wisconsin 53014, and on November 7, 1975, Philadelphia Seed Co., Chemical & Gravers Rds., Plymouth Meeting, PA 19462, made application to the Drug Enforcement Administration to be registered as importers of marihuana, a basic class of controlled substance in schedule I, for the importation of seed only, to be rendered non-viable for use in feed.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registrations and may, at the same time, file a written request for a hearing on such applications in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than April 8, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 20, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.
[FR Doc.76-6280 Filed 3-3-76;8:45 am]

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to section 1008 of the Controlled Substances Import and Export

Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on September 9, 1975, B. David Halpern, Polysciences, Inc., Paul Valley Industrial Park, Warrington, PA 189796, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class controlled substance in schedule I, for the importation of unique isomers and semi-synthetic manufacturers for supply to researchers and analytical laboratories as standards.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than April 8, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975) all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 20, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.
[FR Doc.76-6281 Filed 3-3-76;8:45 am]

[Docket No. 75-7]

SHELDON WAGNER, D.P.M.

Denial of Application for Registration

On March 21, 1975, the then Administrator of the Drug Enforcement Administration (DEA) directed to Sheldon Wagner, D.P.M., of Lake Worth, Florida, and Order to Show Cause as to why the DEA should not deny, pursuant to section 304 of the Controlled Substances Act (21 U.S.C. 824), Dr. Wagner's application for registration as a practitioner under sec-

tion 303 of the Act (21 U.S.C. 823). The Order to Show Cause specified as reason for denial of the application that on June 28, 1973, in the U.S. District Court for the Southern District of Florida, Dr. Wagner was convicted of violating section 841(a)(1), Title 21, United States Code, a felony relating to the distribution of controlled substances.

On April 17, 1975, Dr. Wagner (hereinafter "Respondent") requested a hearing on the Order to Show Cause. Following correspondence regarding the place and date on which said hearing would take place, a hearing on the Order to Show Cause was held on November 14, 1975, in West Palm Beach, Florida, the Honorable Francis L. Young, Administrative Law Judge, presiding.

On January 30, 1976, Judge Young filed, pursuant to 21 C.F.R. 1316.65, his opinion containing recommended findings of fact, conclusions of law and a recommended decision, and certified to the Administrator the record of these proceedings including all docket entries, the transcript of the hearing, all exhibits placed in the record, the Government's proposed findings of fact and conclusions of law, and the Respondent's communications which were in the nature of proposed findings of fact and conclusions of law.

Judge Young found, *inter alia*, that the Respondent knowingly and intentionally sold and distributed a Schedule II narcotic controlled substance to an undercover police officer, that Respondent pleaded guilty to, and was convicted of violating 21 U.S.C. 841(a)(1) as a result of said unlawful distribution, and that in negotiating a subsequent sale of a controlled substance to an agent of DEA, Respondent demonstrated that he "fully realized the unlawful nature and seriousness of his actions, the risks he ran of arrest and the consequences which might follow, including loss of his license." The Administrative Law Judge found that there are lawful grounds in this matter under which this application may be denied. Citing the Acting Administrator's order in the "Matter of Norman Bridge Drug Company, Inc.", 41 FR 3108 (1976), Judge Young found that "this agency has consistently held that where a registration can be revoked under Section 824, it can, *a fortiori*, be denied under Section 823, since the law would not require the useless act of granting a registration on one day only to withdraw it on the next 'In the Matter of Serling Drug Co.', 40 FR 11918 (1975)."

In answering the question of whether the Administrator should, in his discretion, deny this application, the Administrative Law Judge found that evidence in the record establishes "beyond any possibility of doubt that (Respondent) knowingly, and with full awareness of the consequences which might follow upon discovery, engaged in the unlawful sale of controlled substances to persons whom he had every reason to expect would abuse these substances themselves or provide them to others who would abuse them." As the Supreme Court has recently stated, "Congress was particularly concerned with the diversion of

drugs from legitimate channels to illegitimate channels * * *. It was aware that registrants, who have the greatest access to controlled substances and therefore the greatest opportunity for diversion, were responsible for a large part of the illegal drug traffic." "United States v. Moore," 96 S. Ct. 335 (1975). Judge Young concluded that in light of Respondent's past conduct with respect to the handling (and diversion) of controlled substances, the public interest will be best served if he is not authorized to prescribe or dispense them.

Having reviewed the record of these proceedings in its entirety, and pursuant to § 1316.66, Title 21, Code of Federal Regulations, the Administrator fully adopts the findings and conclusions of the Administrative Law Judge.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the Application for Registration of Sheldon Wagner, D.P.M., be, and hereby is, denied.

This order shall be effective on the 30th day of March 1976.

Dated: February 25, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc. 76-6282 Filed 3-3-76; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

PHOENIX DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

The Phoenix District Multiple Use Advisory Board will meet at 9:00 a.m. on April 9, 1976, in the Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona.

The meeting agenda will include management proposals for wild horses and burros on national resource lands; the Bureau of Land Management's implementation of the National Environmental Policy Act through Environmental Impact Statements and Environmental Analysis Records; County Contributed Range Improvement Funds; and Energy Transmission Lines.

The meeting will be open to the public to the limits of available space. Members of the public may make oral statements concerning any of the agenda items. Those wishing to make oral statements should so inform the District Manager prior to the day of the meeting. Time limitations may require that oral statements be limited to five minutes. Any member of the public may submit a written statement. These should be directed to BLM Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Dated: February 26, 1976.

W. K. BARKER,
District Manager.

[FR Doc. 76-6169 Filed 3-3-76; 8:45 am]

[Wyoming 54222]

WYOMING

Application

FEBRUARY 26, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 135), Powder River Pipeline Corporation has applied for a crude oil pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 45 N., R. 76 W.,
Secs. 7 and 8.
T. 45 N., R. 77 W.,
Secs. 10, 11, 12, and 18.
T. 46 N., R. 77 W.,
Sec. 23.

The pipeline will convey oil from wells in Indian Creek, Culp Draw and Heldt Draw Fields to a proposed pumping station in sec. 8, T. 45 N., R. 76 W., and thence to Amoco Pipeline Company's existing Reno Station in Johnson County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82601.

HAROLD G. STINCHCOMB,
Acting Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 76-6170 Filed 3-3-76; 8:45 am]

KLAMATH PROJECT

Management and Disposition of Public Lands

Notice is hereby given that two public meetings jointly sponsored by the Bureau of Reclamation, Bureau of Land Management, and the Fish and Wildlife Service will be held at 7:30 p.m., March 30, 1976, in the Home Economics Building at the Tule Lake-Butte Valley Fairgrounds in Tule Lake, California; and at 7:30 p.m., April 1, 1976, at the Holiday Inn, Redding, California.

The purpose of the meetings is to present to the public, and receive public comment on, management proposals for the future use of the 37 remnant tracts and Peninsula Area of public domain totaling 2,712 acres located in Modoc County, California, and Klamath County, Oregon, presently withdrawn by the Bureau of Reclamation for the Klamath Project purposes.

Mr. Richard J. Dauber, Assistant Regional Solicitor, Office of the Solicitor, Sacramento, California, will be the meeting moderator. Time will be made available to the public for comments after the agencies' presentation. These comments may be oral or written. Those making oral comments may be limited to 10 minutes in order that all members of the public will have an opportunity to make a presentation. Written statements will be accepted at the meeting

or may be mailed before March 26, 1976 to one of the offices listed below

Statements may be submitted to Project Manager, Bureau of Reclamation, P.O. Box R, Klamath Falls, Oregon 97601, Phone (503) 882-7761; the District Manager, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001, Phone (916) 246-5325; or the Manager of the Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, Phone (916) 667-2231. Statements should be limited to material relating to the disposition or the management of the remnant tracts and the Peninsula Area. The meetings records will be closed on April 15, 1976. Further information concerning the public meetings may be obtained from the above offices.

STANLEY D. BUTZER,
District Manager,
Redding District Office.

[FR Doc.76-6210 Filed 3-3-76; 8:45 am]

Geological Survey

CARLSBAD, NEW MEXICO

Known Leasing Area (Potash)

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and 203 Departmental Manual No. 1, and Secretary's Order No. 2948, Federal lands within the State of New Mexico have been classified as subject to the competitive potash leasing provision of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 283). The name of the area, effective date, and total acreage involved are as follows:

(31) NEW MEXICO

Carlsbad (New Mexico) Known Leasing Area (Potash); Revision, April 17, 1975; 69,710 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, U.S. Geological Survey, Building 25, Denver Federal Center, Denver, Colorado 80225.

Dated: February 24, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-6174 Filed 3-3-76; 8:45 am]

SOLDIER MEADOW, NEVADA

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 stat. 1566, 1572; 30 U.S.C. 1020), the delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands

are hereby defined as the Soldier Meadow known geothermal resources area, effective February 1, 1974.

(28) NEVADA

SOLDIER MEADOW KNOWN GEOTHERMAL RESOURCES AREA, HUMBOLDT COUNTY, NEVADA

Mt. Diablo Meridian

Partially Surveyed T. 40 N., R. 24 E.
Protraction Diagram 260

Sec. 12: All
Sec. 13: All
Protracted Sec. 14: All
Sec. 23: All
Sec. 24: All
Sec. 26: All
Sec. 35: All

Partially Surveyed T. 40 N., R. 25 E.
Protraction Diagram 260

Sec. 7: All
Sec. 18: All

The above area aggregates 5,966 acres (2,414 ha), more or less.

Dated: January 19, 1976.

WILLARD C. GERE,
Conservation Manager,
Western Region.

[FR Doc.76-6175 Filed 3-3-76; 8:45 am]

GULF OF MEXICO AND PACIFIC AREAS Disposal of Outer Continental Shelf Royalty Oil

On February 10, 1976, a notice was published in the FEDERAL REGISTER concerning new applications for the purchase of royalty oil from the Gulf of Mexico and Pacific Outer Continental Shelf (OCS) Areas. This notice set a new closing date of February 23 for new filings and extended existing contracts for OCS royalty oil to May 1, 1976.

Considerable concern has been expressed that the transition from the present contract period to that commencing on May 1, 1976, is not attainable within the projected timeframe without resulting in curtailment of some royalty oil deliveries. Therefore, notice is hereby given that all contracts currently in effect for royalty oil from the Gulf of Mexico and Pacific OCS Areas are hereby extended to July 1, 1976, to provide for a smooth transition from one contract period to the other. The extension of said contracts is dependent on providing adequate bonding and acceptable exchange agreements or extension of existing exchange agreements during the extended period.

In order to make an equitable distribution of the available royalty oil and to assure that the interests of the United States are protected, the following procedures are proposed. As the purpose of this program is to provide a supply of crude oil to small refiners who are not able to obtain a supply from other sources, it is believed appropriate to obtain the comments of such refiners on the proposed procedures. Therefore, comments will be accepted until March 19, 1976, on the procedures outlined and should be submitted to the

Director, Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

ALLOCATION PROCEDURES

30 CFR 225a.3 of the royalty oil regulations provides, in part, as follows:

When applications are filed by two or more small refiners for the same oil, the oil will be allocated among such applicants by a drawing or on an equitable prorated basis as determined by the Supervisor prior to execution of contracts for sale of such oil.

It is anticipated the requests for royalty oil will exceed the volume that will be available for sale. In order to assure an equitable distribution of Federal royalty oil to the eligible small refiners requesting delivery of a share of such oil, it is proposed to allocate royalty oil from OCS oil and gas leases on an application basis, that is, the sum of the total number of applications filed by qualified refiners is divided into the total volume of royalty oil available to determine the volume of royalty oil to be allocated to each refiner with the following limitations:

(a) The sum of the volumes of OCS royalty oil purchased pursuant to Part 225a of the royalty oil regulations by any one small refiner shall not exceed 60 percent of the combined refinery capacity of that refiner at the time when application is made for the oil.

(b) The amount allocated to each refiner shall not exceed the maximum stated need, and

(c) The final amount of available royalty oil allocated to any refiner from an OCS area shall be further limited to the total of the royalty oil allocations from all OCS areas and the amount of royalty oil being received from onshore Federal leases.

BOND COVERAGE

Security under a royalty oil contract is necessary in order to protect the United States from loss in the event of default in the performance of the terms and specifications of the contract. Adequate assurance against loss must be provided by either 30- or 90-day bonds as follows:

(a) Where the billing procedures are based on a prepayment of the value of the estimated volume of royalty oil to be taken during a coming month, the bond coverage would be limited to the equivalent value of royalty oil delivered during a 30-day period.

(b) Where no prepayment is made, the bond should cover the value of royalty oil normally taken during a 90-day period.

In order to provide flexibility in securing adequate bond coverage throughout the term of the royalty oil contract, it is understood that the Area Oil and Gas Supervisor has the authority to increase the amount of the bond commensurate with current deliveries or to decrease the amount of royalty oil deliveries under the contract, as necessary, to allow for any oil price increase as such occurs.

DEFAULT ACTION

In cases where the payment for royalty oil is not made in accordance with the provisions of the contract and royalty oil deliveries to the small refiner are discontinued, future deliveries of royalty oil will not be renewed until 30 days after the last day in the month in which deliveries ceased.

FUTURE CONTRACTS

As additional royalty oil becomes available in the future, it will be offered only on an annual basis and then on the anniversary date of this procedure. Any future royalty oil contract written to cover any portion of such nonallocated royalty oil would have a term to expire on the anticipated date of July 1, 1979.

The following is a listing of the preliminary allocations of royalty oil to all refiners having filed applications for OCS royalty oil from the Gulf of Mexico and Pacific OCS Areas. Any comments concerning the preliminary allocations will be considered. These volumes are subject to change as circumstances may dictate.

PACIFIC AREA

Applicant:	Allocation—BOPD
Beacon Oil Co.	358
California Oil Purification Co.	358
Edgington Oil Co.	358
Edgington Oxnard Refinery	329
Fletcher Oil & Refining Co.	358
Gary Western Co.	358
Gladieux Refinery Inc.	358
Kern County Refinery, Inc.	358
Lunday-Thagard Oil Co.	358
MacMillan Ring Free Oil Co., Inc.	358
Newhall Refining Co.	358
Powerline Oil Co.	358
Pride Refining, Inc.	358
Sabre Refining, Inc.	358
San Joaquin Refining Co.	358
Sunland Refining Corp.	358
United Independent Oil Co.	358
U.S. Oil & Refining Co.	358
West Coast Oil Co.	358
Total	6,773

GULF OF MEXICO AREA

Applicant:	Allocation—BOPD
Allied Materials Corp.	1,890
Bayou State Oil Corp.	1,890
Beacon Oil Co.	1,448
The Boswell Oil Co.	1,600
California Oil Purification Co.	1,532
Calumet Industries, Inc.	1,329
Caribou Four Corners, Inc.	1,757
Claiborne Gasoline Co.	1,890
Cross Development Co.	1,890
Crystal Oil Co.	1,890
Crystal Refining Co./Lakeside Refining Co.	1,890
Delta Refining Co.	1,890
Dillman Oil Recovery, Inc.	1,500
Edgington Oil Co.	1,532
Edgington Oxnard Refinery	1,667
Evangeline Refining Co., Inc.	1,890
Fletcher Oil & Refining Co.	1,532
Gary Western Co.	1,532
Gladieux Refiner, Inc.	1,532
Good Hope Refiners, Inc.	1,890
Gary Western Co.	1,532
Howell Corp./Quintana Refining Co.	1,890

GULF OF MEXICO AREA

Applicant:	Allocation—BOPD
Hunt Oil Co.	1,890
Indiana Farm Bureau Cooperative Association	1,890
J & W Refining Inc.	1,890
Kentucky Oil & Refining Co. Inc.	1,600
Kern County Refining Inc.	1,532
La Jet, Inc.	1,890
Laketon Asphalt Refining Inc.	1,532
Little American Refining Co.	1,532
The Louisiana Land & Exploration Co.	1,890
Lunday-Thagard Oil Co.	1,192
MacMillan Ring Free Oil Co., Inc.	1,210
Marion Corp.	1,890
Midland Cooperatives, Inc.	1,890
Mid-Tex Refining	1,800
Navajo Refining Co.	1,890
Newhall Refining Co. Inc.	1,059
Northland Oil & Refining Co.	1,890
OKC Corp.	1,890
Pioneer Refining, Ltd.	1,320
Placid Refining Co.	1,890
Plateau Inc.	1,890
Powerline Oil	1,508
Pride Refining, Inc.	1,532
The Refinery Corp.	1,890
Rock Island Refining Corp.	1,890
Saber Refining Co.	1,890
Sabre Refining Inc.	1,435
San Joaquin Refining Co.	1,198
Seminole Asphalt Refining Co.	1,890
Somerset Oil, Inc.	1,400
South Hampton Co.	1,890
Southland Oil Co.	1,890
Sunland Refining Corp.	1,212
Texas Asphalt & Refining Co.	1,890
Thriftway Co.	1,890
Thunderbird Resources Inc.	1,890
Tonkawa Refining Co.	1,890
Total Leonard Inc.	1,890
United Independent Oil Co.	1,242
U.S. Oil & Refining Co.	1,532
V-1 Oil Co.	1,600
Vulcan Asphalt Refining Co.	1,890
Warrior Asphalt Co. of Alabama	1,800
West Coast Oil Co.	1,047
Western Refining Co.	1,890
Winston Refining Co.	1,890
Young Refining Corp.	1,890
Total	103,000

¹ Reduced to account for other royalty oil to be or being taken.

² Exceed 60 percent limitation.

³ Limited by volume requested.

⁴ Limited to 60 percent of capacity.

In order to minimize the impact of a sudden decrease in this source of crude oil supply on refiners now receiving more royalty oil under existing contracts than they would receive under the proposed allocation—a result of the increased number of eligible applicants—for the first year of the new contract, such refiners may be allotted double the proposed maximum up to the amount the refiner is currently receiving. This may result in a decrease of approximately 300 barrels of oil per day in the allocation to royalty refiners not limited by refinery capacity or other royalty oil supplies.

W. A. RADLINSKI,
Acting Director.

[FR Doc 76-6248 Filed 3-3-76; 8:45 am]

Office of the Secretary

DEFENSE MOBILIZATION

Cancellation of Interior Defense Delegation 1

Notice is hereby given of the cancellation of Interior Defense Delegation 1, dated December 22, 1954, regarding certain authorities of the Secretary of the Interior, assigned by the Office of Defense Mobilization, relating to the exploration, development, and mining of strategic and critical metals and minerals which were redelegated to the Administrator of the General Services Administration. Specific responsibilities of the Secretary covered by this action include those assigned to him by Defense Mobilization Order (DMO) I-7, as amended (19 FR 7348), DMO I-13 (19 FR 7348), and DMO VII-5, as amended (18 FR 6408, 19 FR 7349).

This action is taken because such a delegation of authority is no longer necessary due to the organizational changes which occurred pursuant to Executive Order 11725.

(Sec. 602, E.O. 10480, 18 FR 4943)

Dated: February 26, 1976.

ROLLAND R. REID,
Deputy Assistant Secretary
of the Interior.

[FR Doc 76-6211 Filed 3-3-76; 8:45 am]

[INTFES 76-8]

COLUMBIA BASIN PROJECT,
WASHINGTON

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the Columbia Basin Project in eastern Washington.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Office of the Regional Director, Bureau of Reclamation, Pacific Northwest Region, Box 043-550 W. Fort Street, Boise Idaho 83724, Telephone (208) 342-2711, Extension 2110.

Columbia Basin Project Office, Bureau of Reclamation, P.O. Box 815, Division Avenue & C Street, NW., Ephrata, Washington 98823, Telephone (509) 754-4344.

Grand Coulee Project Office, Bureau of Reclamation, P.O. Box 620, Grand Coulee, Washington 99133, Telephone (509) 633-1360.

Single copies of the Final Statement may be obtained on request to the Commissioner or the Regional Director. Copies will also be available for inspection.

tion in libraries in the Columbia Basin area. Please refer to the statement number above.

Dated February 27, 1976.

STANLEY D. DOREMUS,
Acting Assistant Secretary
of the Interior.

[FR Doc.76-6302 Filed 3-3-76;8:45 am]

National Park Service

BRYCE CANYON NATIONAL PARK, UTAH

Designation of Routes Open to Snowmobiles

In accordance with the requirements of paragraph (c) of § 2.34 of Title 36 of the Code of Federal Regulations, notice is hereby given of routes that will be open to snowmobiles in Bryce Canyon National Park.

In arriving at the designations of the snowmobile routes, we have been guided by the criteria contained in Sections 3 and 4 of Executive Order 11644 (37 FR 2877) and also have considered factors such as other visitor uses, safety, wildlife management, noise, erosion, geography, weather, vegetation, resource protection, and other management considerations.

An environmental assessment has been prepared on the designation of the snowmobile routes and is available for public review in the office of the Park Superintendent.

In order to properly designate the snowmobile routes, it is considered necessary to define the portions of the routes where snowmobile use will be permitted.

Available Roadway: On routes designated for snowmobile use, only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when the designated road or parking area is closed to all other motor vehicle use by the public.

Designated Routes: 1. The Main Park Road from the Bryce Point-Paria Point intersection to Rainbow Point.

2. The Whiteman Bench Road from the Main Park Road to the western park boundary.

3. The Yovimpa Fire Road from the Main Park Road to the western park boundary.

4. The Sunset Campground road system and its access road from the Main Park Road.

5. The Sunset Campground Service Road from the Sunset Campground to the western park boundary.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the decision making process. As required by 36 CFR 2.34(c), prior to making a final decision on these designated routes, the public shall be provided a 30-day period to comment. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the snowmobile route designations, to the Park Superintendent, Bryce Canyon National Park, Bryce

Canyon, Utah 84717, on or before April 5, 1976.

CHARLES A. BUDGE,
Superintendent,
Bryce Canyon National Park.

[FR Doc.76-6221 Filed 3-3-76;8:45 am]

SOUTHWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southwest Regional Advisory Committee will be held at 8:30 a.m., C.D.T., March 30 and 31 and April 1, 1976, at the Community Room, Big Bend National Park Headquarters, Panther Junction, Texas. On March 29, the Committee will hold a public meeting beginning at 9:00 a.m., in the Community Room, Alpine City Hall, Alpine, Texas, to solicit local attitudes and opinions relating to the National Park Service management of Big Bend National Park.

The Southwest Regional Advisory Committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Southwest Region of the National Park Service.

The members of the Southwest Regional Advisory Committee are:

Mr. David R. Strickland, Muskogee, Oklahoma (Chairman)
Mr. Bob Burleson, Temple, Texas
Dr. Neil Compton, Bentonville, Arkansas
Mr. E. C. Deane, Fayetteville, Arkansas
Dr. Bertha P. Dutton, Santa Fe, New Mexico
Mr. Sam R. Powell, Tulsa, Oklahoma
Mr. J. R. Singleton, Austin, Texas
Mrs. Roulhac Toledano, New Orleans, Louisiana
Professor E. J. Urbanovsky, Lubbock, Texas

Designated Federal Officer to attend the meeting is Joseph C. Rumburg, Jr., Regional Director, Southwest Region, National Park Service, or his designee.

The matters to be discussed at this meeting include:

1. Concessionaire Relationships and Responsibilities
2. Public Participation Through Advisory Committees
3. Current National Park Service Policy, Objectives and Service Priorities
4. The San Antonio Mission Proposal
5. Management Concerns for Big Thicket National Preserve
6. Problems of Historic Preservation
7. The Development and Management of Big Bend National Park

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may appear before the Committee or file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact

Frank Mentzer, Assistant to the Regional Director, P.O. Box 728, National Park Service, Southwest Regional Office, Santa Fe, New Mexico, 87501, telephone area code 505 988-6375. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Southwest Region.

Dated: February 24, 1976.

JOSEPH C. RUMBURG, Jr.,
Regional Director, Southwest
Region, National Park Service.

[FR Doc.76-6222 Filed 3-3-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m. on March 16, 1976.

Notification was received on February 24, 1976, that a meeting of this committee was necessary as soon as possible in order to consider the current market and crop conditions which may result in a recommendation to relax shipping requirements, in recognition of the volume and quality of the remaining supply. March 16, 1976, is the earliest possible date for the committee to meet. Consequently, it is impracticable to comply with the normal 15-day FEDERAL REGISTER notice requirement of the Office of Management and Budget Guidelines, par. 8b(3), and of 7 CFR 25.19(h) and it is, therefore, found that the situation warrants this shorter notice.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: March 2, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-6513 Filed 3-3-76;11:43 am]

Commodity Credit Corporation
[Amdt. 11]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1976) Interest Rates on Grain Sales

The CCC Monthly Sales List for the fiscal year ending June 30, 1976, published at 40 F.R. 30510 as amended is further amended by revising the last sentence of Section 1(b), entitled "General", as revised at 40 F.R. 49810, to read as follows:

Interest at 8% will be charged for delinquent payments on consignment and track grain sales.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective date: January 30, 1976, 2:30 p.m. (e.s.t.).

Signed at Washington, D.C. on February 27, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-6258 Filed 3-3-76; 8:45 am]

Forest Service

CURTIS CREEK UNIT PLAN

Availability of Draft Environmental Statement; Correction

In FR Doc. 76-4833 appearing at page 7798 in the FEDERAL REGISTER of February 20, 1976, add an additional sentence as follows: This draft environmental statement was transmitted to CEQ on February 12, 1976.

Dated: February 26, 1976.

ROBERT W. CERMAK,
Forest Supervisor.

[FR Doc.76-6209 Filed 3-3-76; 8:45 am]

JOHN DAY PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Draft environmental statement for the John Day Planning Unit land Use Plan, USDA-FS-R6-DES(Adm)-76-3.

The environmental statement concerns a proposed action that will establish two unroaded management units—McClellan Mountain and Nipple Butte—and portions of North and South Strawberry Inventoried Roadless Areas allocated to wilderness study. Three special areas will remain in their special status. The Strawberry Mountain Wilderness and Strawberry Mountain Wilderness Study Area will remain in their present status. Allocation of portions of Greenhorn Mountain, Glacier Mountain and Jump-Off Joe Inventoried Roadless Areas is deferred until the entire roadless area has been evaluated in the adjacent planning units. The visual management plan, which sets the visual quality objectives for all National Forest lands, will be followed in the Planning Unit. All other areas are managed for optimum resource production under

multiple use-sustained yield principles. An Off-Road Vehicle and Road Closure Plan, which will complement the proposed action, is part of this proposal.

This draft environmental statement was transmitted to CEQ on February 27, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.

USDA, Forest Service, Pacific Northwest Region, Multnomah Building, 319 S.W. Pine Street, Portland, Oregon 97204.

USDA, Forest Service, Malheur National Forest, 139 N.E. Dayton Street, John Day, Oregon 97845.

A limited number of single copies are available upon request to T. A. Schlapfer, Regional Forester, P.O. Box 3623, Portland, Oregon 97208.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to T. A. Schlapfer, Regional Forester, P.O. Box 3623, Portland, Oregon 97208. Comments must be received by April 27, 1976, in order to be considered in the preparation of the final environmental statement.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programming & Budgeting.

FEBRUARY 27, 1976.

[FR Doc.76-6208 Filed 3-3-76; 8:45 am]

Forest Service

WEST CHICHAGOF-YAKOBI ISLAND LAND USE STUDY

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the West Chichagof-Yakobi Island Land Use Study, USDA-FS-FES(Adm)R-75-10.

This plan offers five alternatives for management, and an evaluation of each of the environmental and economic impacts under each plan. The primary action having impact on the land is timber harvest, although increased mining, recreation use and harvest of fish and game will also affect the ecosystem.

This final environmental statement was transmitted to CEQ on February 26, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Avenue, S.W., Washington, D.C. 20250.
USDA Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99802.

Forest Supervisor, Chugach National Forest, 121 W. Fireweed Lane, Suite 205, Anchorage, Alaska 99503.

Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 757, Sitka, Alaska 99835.

Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to Richard W. Wilson, Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 757, Sitka, Alaska 99835.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

C. A. YATES,
Regional Forester,
Alaska Region.

FEBRUARY 26, 1976.

[FR Doc.76-6161 Filed 3-3-76; 8:45 am]

Soil Conservation Service

BAILEY-COX-NEWTSON WATERSHED PROJECT, INDIANA

Availability of Draft Environmental Impact Statement

Pursuant to section 192(2)(c) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19651, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Bailey-Cox-Newton Watershed project, Starke County, Indiana, USDA-SCS-EIS-WS-(ADM)-76-4(D)-IN.

The environmental impact statement concerns a plan for watershed protection and flood prevention. The planned works of improvement, as described in the environmental impact statement, include conservation land treatment supplemented by 19.0 miles of channel excavation, 7.2 miles of selective clearing, 6,900 lineal feet of dike, 14 structures for water control, a pump station, and 4,000 lineal feet of spawning ditches.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information

mation should be addressed to Cletus J. Gillman, State Conservationist, Soil Conservation Service, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

Comments must be received on or before April 24, 1976, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: February 25, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water
Resources, Soil Conservation
Service.

[FR Doc.76-6165 Filed 3-3-76;8:45 am]

BEAR CREEK WATERSHED PROJECT, MISSOURI

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bear Creek Watershed Project, Scotland and Clark Counties, Missouri.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, USDA, Parkade Plaza Shopping Center, Terrace Level, 601 Business Loop 70 West, Columbia, Missouri 65201, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by eight single purpose floodwater retarding structures and one grade stabilization structure.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, Parkade Plaza, Shopping Center, Terrace Level, 601 Business Loop, 70 West, Columbia, Missouri 65201.

Requests for single copies of the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until on or before March 19, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: February 24, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water
Resources, Soil Conservation
Service.

[FR Doc.76-6163 Filed 3-3-76;8:45 am]

PINE RIVER WATERSHED PROJECT, WISCONSIN

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Pine River Watershed project, Richland and Vernon Counties, Wisconsin, USDA-SCS-EIS-WIS-(ADM)-76-1(D)-WI.

The environmental impact statement concerns a plan for watershed protection, flood prevention, recreation, and fish and wildlife improvement. The planned works of improvement include conservation land treatment, supplemented by seven floodwater retarding structures, two multiple-purpose structures for flood prevention and recreation, 4.5 miles of trout stream habitat improvement, and a system of dikes along the Pine River in the city of Richland Center. The recreational development will provide 142,800 visitor-days of recreation annually.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 4601 Hammersley Road, Madison, Wisconsin 53711.

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to J. C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711.

Comments must be received on or before April 24, 1976, in order to be considered in preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: February 26, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water
Resources, Soil Conservation
Service.

[FR Doc.76-6166 Filed 3-3-76;8:45 am]

UPPER BIG BLUE RIVER WATERSHED, INDIANA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974, the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Big Blue River Watershed Project, Henry and Rush Counties, Indiana.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Cletus J. Gillman, State Conservationist, Soil Conservation Service, USDA, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, has determined that the preparation and review of an environmental impact statement is not needed for this portion of this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement, as described in the negative declaration, include three multiple purpose structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

Requests for single copies of the negative declaration should be sent to the above address.

No administrative action on implementation of this proposal will be taken on or before March 19, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: February 23, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water
Resources, Soil Conservation
Service.

[FR Doc.76-6164 Filed 3-3-76;8:45 am]

UPPER PETIT JEAN WATERSHED, ARKANSAS

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Upper Petit Jean Watershed Project, Logan, Scott, and Sebastian Counties, Arkansas, USDA-SCS-EIS-WS-(ADM)-76-3-(F)-AR.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and municipal and industrial water supply. The planned works of improvement include conservation land treatment, eight floodwater retarding structures, and one multiple purpose structure (flood prevention and municipal and industrial water supply).

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 700 West Capitol, Little Rock, Arkansas 72201.

(Catalog of Federal Domestic Assistance Program Number 10.904, National Archives Reference Services)

JOSEPH W. HAAS,
Deputy Administrator for Water
Resources, Soil Conservation
Service.

Dated: February 25, 1976.

[FR Doc.76-6167 Filed 3-3-76; 8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, April 13, 1976 at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide

availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Reports on the work programs of the Subcommittees:
 - (a) Technology Transfer;
 - (b) Foreign Availability;
 - (c) Licensing Procedures; and
 - (d) Hardware.

EXECUTIVE SESSION

- (4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 11, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/967-4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in "Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al.", September 10, 1974 as amended, September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination

to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER (40 FR 56960, appearing in the issue of December 5, 1975).

Dated: February 27, 1976.

RAUER H. MEYER,
Director, Office of Export Administration,
Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-6160 Filed 3-3-76; 8:45 am]

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Thursday, May 27, 1976, at 8:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Discussion of work program of the Committee.
- (4) Reports of Subcommittees:
 - (a) New Technology.
 - (b) Foreign Availability.
 - (c) Definitions.

Jacket 58-000 folio 168- 31-10 ??-
NO. 59880- MCLEAN - MARCH - 1976 ?

EXECUTIVE SESSION

- (5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be

submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975 pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b) (1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/967-4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in "Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al.", September 10, 1974, as amended, September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination to close portions of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER (40 FR 57817, appearing in the issue of December 12, 1975 and amended 41 FR 7536, appearing in the issue of February 19, 1976).

Dated: February 27, 1976.

RAUER H. MEYER,
Director, Office of Export Administration,
Bureau of East-West Trade, U.S. Department
of Commerce.

[FR Doc. 76-6161 Filed 3-3-76; 8:45 am]

Maritime Administration

[Docket No. S-493]

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., a Delaware Corpo-

ration, has filed an application dated December 18, 1975, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy under Operating-Differential Subsidy Agreements, Contracts Nos. FMB-50 and FMB-76, in order to conduct an east-bound Round-the-World service in coordination with its presently existing westbound Round-the-World service, to provide sailings from the U.S. Atlantic to the Mediterranean, via the Suez Canal to South Asia, including the Red Sea, Gulf of Aden, Persian Gulf, Southeast Asia, the Far East, including the People's Republic of China and the Union of Soviet Socialist Republics in Asia; California and the West Coast of Mexico, and Panama to the U.S. Atlantic. Services to be provided include areas or ports on essential Trade Routes Nos. 4, 10, 12, 17, 18, 23, 25, 28, and 29.

The application requests operating-differential subsidy for five C6 container-ships on a maximum of 36 sailings per annum on the proposed service in lieu of a maximum of 28 sailings on American President Lines' Atlantic/Straits, Trade Route No. 17, service on which it is presently operating five C6 container-ships. The application is for service under the existing Agreement, Contract No. FMB-50; an interim 2 year contract, if granted to follow Contract No. FMB-50 which expires on December 31, 1976; and the long-term contract, if granted, which is currently being considered under Docket S-417, whichever contract is then in effect at the time of approval of this application, if approved, and/or any contract which may be thereafter granted.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Act (46 U.S.C. 1175), should by close of business on March 17, 1976, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file a petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605 (c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), and with as much specificity as possible the facts that the intervenor would undertake to prove it such a hearing.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene within the specified time do not demonstrate sufficient interest to war-

rant a hearing, the Board will take such action as may be appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

Dated: March 1, 1976.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 76-6293 Filed 3-3-76; 8:45 am]

BARNETT BANK OF MIAMI BEACH

Notice of Request for Removal From Roster of Approved Trustees

Notice is hereby given that Barnett Bank of Miami Beach, National Association (formerly Mercantile National Bank of Miami Beach) with offices at 420 Lincoln Road, Miami Beach, Florida, has requested that its name be removed without disapproval from the Roster of Approved Trustees pursuant to 46 CFR 221.28 and has certified that it is no longer acting or proposing to act as Trustee under a Vessel or Shipyard Financing Trust pursuant to Public Law 89-346 and 46 CFR 221.21-221.30. The certification, in part, read as follows:

"... Inasmuch as captioned Bank previously acted as Trustee for a New York bank in connection with a mortgage from Standard Dredging Company, which mortgage has heretofore been satisfied and discharged, the Bank is no longer required to act as Trustee and has no present need for approval by the Maritime [Administration] as a Trustee pursuant to Public Law 89-346, etc. For that reason, the Bank requests the removal of its name from the Registry. . . ."

A notice of Approval of Request for Removal from Roster of Approved Trustees will be published not less than 30 days after publication of this notice, unless the Barnett Bank of Miami Beach, National Association requests a withdrawal of its request for removal or if it is found that the certification is not correct based on information furnished to or otherwise available to the Maritime Administration.

Dated: February 27, 1976.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 76-6294 Filed 3-3-76; 8:45 am]

[Docket No. S-494]

SEA TANKERS, INC.

Notice of Application

Notice is hereby given that Sea Tankers, Inc., 1114 Avenue of the Americas, New York, New York 10036, has filed an application dated February 4, 1976, to amend its Operating-Differential Subsidy Agreement (the Agreement), Contract No. MA/MSB-233, by adding the

S/T OVERSEAS VALDEZ and the **S/T OVERSEAS ALICE**. The Operator engages in the carriage of export bulk raw and processed agricultural commodities from the United States (U.S.) to the Union of Soviet Socialist Republics (U.S.S.R.). Liquid and dry bulk cargoes may be carried from the U.S.S.R. and other foreign ports, inbound, to U.S. ports during voyages subsidized for the carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

The Agreement was approved by the Maritime Subsidy Board (the Board) on January 22, 1973, and presently covers the **S/T OVERSEAS EVELYN**. The Agreement will expire on December 31, 1976. Each voyage under the Agreement must be approved for subsidy before commencement of the voyage, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605 (c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before March 17, 1976, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended (the Act); and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to

warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

Dated: March 1, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-6292 Filed 3-3-76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N-0321; DESI 5213]

COUGH PREPARATION CONTAINING DIMETHOXANATE HYDROCHLORIDE

Withdrawal of Approval of New Drug Application

A notice (DESI 5213; Docket No. 75N-0321) was published in the **FEDERAL REGISTER** of December 18, 1975 (40 FR 58677), in which the Director of the Bureau of Drugs offered the opportunity for hearing on the proposal to issue an order withdrawing approval of the following drug product:

NDA 11-174; Cothera Syrup containing dimethoxanate hydrochloride; formerly marketed by Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017.

The basis of the proposed action was the lack of substantial evidence that the above product is effective for its labeled indications. The drug has been used for the temporary relief of cough. The proposed action was not contested, and approval of the new drug application is now being withdrawn.

All drug products which are identical, related, or similar to the drug product named above, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

Neither the holder of the application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended; 21 U.S.C. 355), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved,

there is a lack of substantial evidence that the drug product will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application no. 11-174, and all amendments and supplements applying thereto, is withdrawn effective March 15, 1976.

Shipment in interstate commerce of the above product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: February 24, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-6197 Filed 3-3-76; 8:45 am]

[Docket No. 75N-0202; DESI 366]

PROTOKYLOL HYDROCHLORIDE INJECTION AND EPINEPHRINE SUSPENSION IN OIL FOR INJECTION

Withdrawal of Approval of New Drug Applications or Pertinent Parts Thereof

A notice (DESI 366; Docket No. 75N-0202) was published in the **FEDERAL REGISTER** of December 15, 1975 (40 FR 58164) in which the Director of the Bureau of Drugs offered the opportunity for hearing on the proposal to issue an order withdrawing approval of the following drug products. The products have been used in the treatment of various bronchial conditions.

1. NDA 366; Adrenalin in Oil for injection containing epinephrine in suspension; formerly marketed by Parke, Davis and Co., Joseph Campau at the River, Detroit, MI 48232.

2. NDA 1-225; Epinephrine Suspension (in oil); formerly marketed by Endo Laboratories, Inc., 1000 Stewart Ave., Garden City, NY 11533.

3. That part of NDA 11-469 pertaining to Caytine Injection, an aqueous solution containing protokylol hydrochloride; Lakeside Laboratories, Division of Richardson-Merrell, Inc., 1707 E. North Ave., Milwaukee, WI 53202.

The basis of the proposed action was the lack of substantial evidence that the products are effective for their labeling indications. The proposed action was not contested and approval of the products is now being withdrawn.

All drug products that are identical, related, or similar to a drug named above, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

Neither the holders of the new drug applications nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended; 21 U.S.C. 355), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 366, 1-225, 11-469 (or if indicated above, those parts of the applications providing for the drug products listed) and all amendments and supplements applying thereto, is withdrawn effective March 15, 1976.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: February 24, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-6198 Filed 3-3-76; 8:45 am]

Health Resources Administration COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE

Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of March 1976:

Name: Cooperative Health Statistics Advisory Committee.

Date and time: March 25-26, 1976, 9:00 a.m.
Place: Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.
Open for entire session.

Purpose. The Cooperative Health Statistics Advisory Committee represents the interest of the people of the United States in providing advice and guidance to the Secretary and the National Center for Health Statistics on policies and plans in developing a major new national network of integrated or coordinated subsystems of data collections, processing, and analysis over a wide range of questions relating to general health problems of the population, health care resources, and the utilization of health care services.

Agenda. Agenda items for the meeting include (1) Introductions (2) Remarks by the Director, NCHS, (3) CHSS Prog-

ress Report, (4) Reports of Task Force Groups and Panels, (5) Report on Duplication of Data Systems, and (6) Report on Activities of Health Data Policy Committee.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster, minutes of meeting, or other relevant information should contact Mr. James A. Smith, Room 8-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852 Telephone (301) 433-1470.

*Agenda items are subject to change as priorities dictate.

Dated: February 26, 1976.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc.76-6194 Filed 3-3-76; 8:45 am]

Health Services Administration QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

List

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of January 1976 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(OPERATIONAL QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS: 42 CFR 110.603(A))

1. Portland Metro Health, Incorporated, 5201 S.W. Westgate Drive, Room 111, Portland, Oregon 97221. Service area: Multnomah, Clackamas, and Washington Counties, Oregon; and Clark County, Washington. Date of qualification: January 1, 1976.

2. Sound Health Association, 1112 South Cushman Avenue, Tacoma, Washington 98405. Service area: Pierce County, Washington. Date of qualification: January 23, 1976.

(TRANSITIONALLY QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS: 42 CFR 110.603(B))

1. Genesee Valley Group Health Association, 41 Chestnut Street, Rochester, New York 14647. Service area: City of Rochester, and County of Monroe, New York. Date of qualification: January 30, 1976.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of the Administrator, Health Services Administration, Department of Health Education, and Welfare, Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: February 23, 1976.

ROBERT VAN HOEK,
Acting Administrator.

[FR Doc.76-6168 Filed 3-3-76; 8:45 am]

Office of the Secretary PRESIDENT'S COMMISSION ON OLYMPIC SPORTS Meeting

Notice is hereby given, pursuant to P.L. 92-463, that the President's Commission on Olympic Sports, established by the President in Executive Order No. 11868 dated June 19, 1975, amended by Executive Order No. 11873 dated July 21, 1975, will hold a closed meeting on Saturday, March 20, 1976 at 9:30 a.m., and Sunday, March 21, 1976 at 9:30 a.m. at the L'Enfant Plaza in Washington, D.C. A determination to close this meeting was made by the Assistant Secretary for Administration and Management for the Department of Health, Education and Welfare on March 3, 1976. This meeting will consist of a discussion of individuals concerned within the meaning of Exemption (b) (6) of the Freedom of Information Act, 5 U.S.C. 522(b) (6).

Further information on the Commission may be obtained from Mr. Michael T. Harrigan, Executive Director, President's Commission on Olympic Sports, Room 3002, 2025 M Street, N.W., Washington, D.C. 20506, telephone (202) 254-8410.

Dated: March 3, 1976.

MICHAEL T. HARRIGAN,
Executive Director.

[FR Doc.76-6536 Filed 3-3-76; 12:12 pm]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 14322; Notice No. 75-9D]

OPERATIONS REVIEW PROGRAM

Availability of Conference Summary

From December 1 through 5, 1975, the Federal Aviation Administration conducted a conference in Washington, D.C., as a part of the 1975-1976 Operations Review Program. Information relating to the objectives of the program, to its operation, and specifically to that conference are contained in the following notices that have been published in the FEDERAL REGISTER:

Notice No. 75-9 (40 FR 8685) February 15, 1975; Notice No. 75-9A (40 FR 24041) June 4, 1975; Notice No. 75-9B (40 FR 48999) October 17, 1975; and Notice No. 75-9C (40 FR 53299) November 17, 1975.

The FAA now announces the availability of a document, entitled Conference Summary. That document contains:

(1) Summaries of the agenda items discussed at the conference; (2) Copies of certain speeches given at the conference; and (3) A list of those who registered for the conference.

As indicated in Notice No. 75-9 copies of the Conference Summary are being forwarded to those persons who registered at the Conference, and a copy has been placed in the Rules Docket for the 1975-1976 Operations Review Program. In addition, copies will be mailed to other persons who have requested them. A limited number of copies of the Conference

summary may remain after this distribution. Until the supply is exhausted, a copy may be obtained by writing the Federal Aviation Administration, Flight Standards Service, Attention: Operations Review Branch, AFS-920, 800 Independence Avenue S.W., Washington, D.C. 20591.

(Section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Washington, D.C., on February 23, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 76-5592 Filed 3-3-76; 8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS SPECIAL COMMITTEE 129—FUTURE CIVIL AVIATION FRE- QUENCY SPECTRUM REQUIREMENTS

Meeting

Notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 129, which is being utilized as an Advisory Committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. Appendix I. It will be held April 1-2, 1976 in Conference Room 8210, Federal Communications Commission, 2025 M Street, NW., Washington, D.C. 20554, commencing at 10:00 a.m. Agenda items include:

1. Approval of the Minutes of meeting held February 12, 1976.
2. Chairman's comments.
3. Report on FCC Steering Committee.
4. Reports of Informal Groups.
5. Consideration of First Draft Final Report.

Meetings of the RTCA Special Committee 129 are open to the public, subject to space limitations. Subject to time being available, any member of the public may present oral statements at the meeting, or may submit written statements to or obtain additional information from the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006: (202) 296-0484.

Issued in Washington on February 27, 1976.

EDGAR A. POST,
Designated Officer.

[FR Doc. 76-6318 Filed 3-3-76; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26769; Order 76-2-125]

ALASKAN AIR CARRIERS AND VARIOUS AIR TAXI OPERATORS

Order Approving Agreements for Provision of Alaskan Bush Route Air Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of February 1976.

By ER-946, issued contemporaneously herewith, the Board has adopted a new Part 293 of the Board's Economic Regulations, which establishes guidelines for

the approval of agreements between certificated Alaskan air carriers and air taxi operators involving the provision of bush route air services. The new rule provides, *inter alia*, that prior Board approval as specified under Subpart P of the Board's rules of practice is required for implementation of any Alaskan bush route service agreement.

Appendix A hereto contains a list of 22 agreements under which certificated Alaskan bush routes are currently being served by air taxi operators—eight involving Alaska Airlines, Inc., 13 involving Wien Air Alaska, Inc., and one involving Reeve Aleutian Airways, Inc. Each of these active agreements conforms satisfactorily to the financial and operational aspects of Part 293. That is, each agreement either has been in effect for more than a year or stipulates that its duration will be for at least one year; renewal and termination provisions are reasonable; and there is no indication that the terms of any of the agreements are inequitable. With respect to the latter consideration, many of the contracts have been periodically revised for the purpose of making upward adjustments in the bases for determining financial support. In these circumstances, it would be unnecessarily burdensome to require refiling of the present agreements for more literal conformance with Part 293 and we shall not so require.

At the same time, the existing agreements do not contain provisions indicating explicit compliance with certain of the requirements under Part 293. In view of this consideration, our conditional approval of the existing agreements enumerated in Appendix A shall be contingent upon a satisfactory demonstration that certain provisions of Part 293 have been met. Specifically, the parties to each agreement are directed to submit to the Board within thirty days of the date of service of this order acknowledgements or evidence, as appropriate, of compliance with the following requirements:

1. A copy of each agreement including any amendments thereto, must be on file with the Board's Alaska Regional Office and with the Alaska Transportation Commission;
2. The air taxi party to each agreement must be registered with the Board as an air taxi under Part 298; and
3. The air taxi party must hold or have filed an application for scheduled authority over the specified route(s) from the State of Alaska.

In addition, the air taxi party to each agreement approved herein shall be required to submit quarterly reports, in compliance with § 293.4, beginning with the first full quarter following the effective date of Part 293. The reports shall be filed within forty days after the end of each calendar quarter and shall conform to the format displayed in Appendix B hereto, subject to such modification as the Board may find necessary at any future time.¹

¹ Reports shall be filed in triplicate and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

Notwithstanding that the existing agreements are being accorded grandfather treatment in major portion, these and future agreements will be subject to full compliance with all requirements of Parts 261 and 293. Thus, for example, whether or not any agreement tentatively approved herein contains an explicit provision for the performance of any necessary backup support by the federally certificated carrier (§ 293.3(d)), or for conspicuous notice by the air taxi concerning legal responsibility (§ 293.3(e)), the parties shall comply with these regulatory requirements, and all agreements approved hereunder shall be deemed to incorporate the contractual provisions set forth in § 293.3. Similarly, any such agreement remains subject to review by the Board's staff to assure continued conformance with all aspects of Part 293 as changing circumstances may require.²

We have also examined the agreements in light of the requirements of section 408 of the Act. Under the agreements, the certificated route air carriers exercise some control over the operations of the air taxi parties providing bush route air services. We believe that this consideration indicates that the certificated route air carriers control the air taxi parties within the meaning of section 408 of the Act and it may be that the nature of the operations will result in other relationships subject to section 408. We have decided, pursuant to section 408(a)(5) of the Act, to exempt the acquisition by the certificated route air carriers named herein of control of the air taxi parties named herein (noncertificated air carriers), from the requirements of section 408. The agreements in question will not create a monopoly, restrain competition, or jeopardize another air carrier not a party to any of the transactions, nor will they be inconsistent with the public interest. In these circumstances requiring the certificated route air carriers to obtain approval under section 408 of the Act would unnecessarily deter continuation of the agreements, subject them to unnecessary expense and would not be in the public interest.³

We also conclude that the air taxi parties named herein should continue to be granted an exemption from section 401 of the Act. In this respect, we find that it would be inappropriate and not in the public interest to require these

² While future agreements providing for replacement services of the type contemplated herein require prior board approval, amendments to such agreements will not necessarily require prior approval. Thus, amendments which do not materially affect the nature of an existing agreement—for example, an amendment involving a change in the name of the air taxi—can be filed in accordance with Part 261.

³ To the extent that section 408 relationships may have been established without prior Board approval it is concluded that exceptional circumstances exist within the meaning of the Sherman Doctrine and that there is no impediment to the processing of these relationships on their merits (Sherman, Control and Interlocking Relationships, 15 C.A.B. 878, 881).

noncertificated air carriers to undergo certification proceedings in order to provide the replacement services for Alaska, Wien and Reeve Aleutian that are specified herein. Thus, in view of the volume of operations of the replacement carriers, and the scope of the replacement services here at issue, and the Board's findings and conclusions in Orders 72-9-39, September 12, 1972, and 73-1-3, January 2, 1973, which set forth in detail the Board's rationale for approval of air taxi replacement services, we find that the statutory conditions and guidelines for exemption, pursuant to section 416(b) of the Act, continue to exist.

On the basis of the foregoing and all facts of record, the Board finds, pursuant to section 412 of the Act, that the agreements listed in Appendix A hereto are neither adverse to the public interest nor in violation of the Act, and that they therefore should be approved subject to the conditions hereinafter stated; and that the acquisition by the certificated route air carriers named herein of control over the air taxi parties named herein should be exempted from the provisions of section 408 of the Act.

Accordingly, it is ordered, That:

1. The agreements listed in Appendix A be and they hereby are approved pursuant to section 412 of the Act: *Provided, however*, That the approval herein conferred with respect to any individual agreement shall be revoked if the parties to such agreement fail to submit within thirty days after service date of this order satisfactory acknowledgement or evidence, as appropriate, of compliance with certain requirements pursuant to Part 293 of the Board's Economic Regulations as specified herein: *Provided, further*, That the air taxi party to each agreement approved herein shall file, not later than forty (40) days after the end of each calendar quarter, beginning with the first full quarter following the effective date of Part 293, reports covering operations performed during that quarter pursuant to said agreement, as specified herein and in the format displayed in Appendix B to this order;

2. Pursuant to section 408(a)(5) of the Act the acquisitions by the certificated route air carriers named herein of control over the air taxi parties named herein be and they hereby are exempted from the requirements of section 408 to the extent necessary for implementation of the agreements listed in Appendix A hereto;

3. This order may be amended or revoked in whole or in part at any time in the discretion of the Board without hearing.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.
[FR Doc. 76-6247 Filed 3-3-76; 8:45 am]

* Appendices A and B filed as part of the original document.

[Docket Nos. 28810, 28879; Order 76-2-113]

AMERICAN AIRLINES, INC. ET AL.

Order Dismissing Complaints Regarding U.S. Mainland-Puerto Rico/Virgin Islands Fare Increase

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of February 1976.

By tariff revisions¹ marked to become effective March 1, 1976, American Airlines, Inc. (American), and Eastern Air Lines, Inc. (Eastern) propose to increase fares in the New York-San Juan market by 3 percent, and fares in other mainland U.S.-Puerto Rico/Virgin Islands markets by 0.5 percent.²

In support of their proposals, American and Eastern allege that for the year ended September 1975 their combined results show an actual return on investment of only 2.5 percent. With the proposed increase, their rate of return, after what they consider to be acceptable ratemaking adjustments, will allegedly be 10.6 percent in the New York-San Juan market and 9.8 percent in all other markets.³ The carriers take exception to, and either do not include or modify, certain ratemaking adjustments made by the Board in evaluating their most recent fare increase request in this market (Order 75-11-116). Specifically, they have made no adjustment to reflect the decline in aircraft utilization over 1972; have modified the adjustment in interest expense and investment flowing from application of the -0.7 elasticity factor by applying a 75 percentage factor to reduction in available seat-miles; and have projected cost inflation through March 31, 1976. These foregoing adjustments are consistent with their position in recent 48-state ratemaking ROI matters.

The Commonwealth of Puerto Rico (Commonwealth) has filed complaints alleging that the carriers have provided no basis for increasing fares above those which became effective on January 15, 1976, unless the Board abandons its own ratemaking methodology. The Commonwealth objects to American's fuel cost-inflation factor on the grounds that it assumes an increase of one cent per gallon in the price of fuel from December 1975 to April 1, 1976. It further alleges that an increase in New York-San Juan fares will only reinforce the cycle of reduced traffic, less service, and more fare increases that has characterized this market, and that the 68 percent load-factor standard and the concentration of more efficient wide-bodied aircraft in

the New York-San Juan market calls for lower, not higher, fares compared with those in other markets.

In answer to the complaints, American contends that, even were it to accept the aircraft utilization adjustment, the carriers' combined rate of return would be less than 12 percent. With respect to fuel costs, American points out that its cost for January 1976 was 26.465 cents per gallon and exceeds the price it projected for effect April 1, 1976 by almost nine-tenths of a cent. As to allocation of New York-San Juan costs, American contends that its methodology comports with the instructions prescribed by the Board when it required the carriers to submit *pro-forma* tariffs complying with the ratemaking standards established by Order 74-10-78.

Upon consideration of the filings, the complaints and answer thereto, and all other relevant matters, the Board has determined that the complaints do not set forth sufficient facts to warrant investigation and the request therefor, and consequently the request for suspension, will be denied and the complaints dismissed.

By Order 75-11-116, the Board dealt with a proposal by American, Eastern, and Pan American to increase fares in the U.S. mainland-Puerto Rico/Virgin Islands market by eight percent. The Board made certain ratemaking adjustments required by Order 74-10-78 (Mainland U.S.-Puerto Rico/Virgin Islands Fares case, Docket 24353), and other adjustments which it determined were sound as ratemaking concepts. These same adjustments, with minor modifications discussed below, have been applied to operating results for the year ended September 30, 1975, and result in an adjusted rate of return for American and Eastern combined of 10.7 percent with the fare increase requested.⁴ Accordingly, we are unable to conclude that the fare increase requested is unreasonable. See Appendix B.⁵

While the carriers argue that the Board should not adjust operating results to reflect the decline in aircraft utilization, we continue to believe this to be an appropriate adjustment. American argues further that the utilization adjustment should not be made since application of the load-factor standard results in a ratemaking utilization above the 1972 utilization rate. Notwithstanding the fact that American compares its "ratemaking" utilization rate with its 1972 experience which includes no ratemaking adjustment, and the carrier's arguments to the contrary, the load-factor adjustment does not affect the rate

¹ Revisions to American Airlines, Inc. Tariff C.A.B. No. 244; and Eastern Air Lines, Inc. Tariff C.A.B. No. 417.

² Pan American World Airways, Inc. proposes to increase fares in the Miami-San Juan market (the only market served by Pan American in this rate-making entity) by 0.5 percent.

³ The overall rate of return for the entire ratemaking entity computes to 10.2 percent.

⁴ The adjusted ROI after the requested increase is 11.48 percent for New York-San Juan and 10.05 percent for all other markets.

⁵ The details of the Board's analysis will be available for public inspection in the Public Reference room, Room 710, on Monday, March 1, 1976. Appendices A and B filed as part of the original document.

of aircraft utilization, but rather the number of aircraft in the carrier's fleet. The production of available seat-miles (ASM's) is a function of the average number of seats in each aircraft, the total number of aircraft, and the degree to which the aircraft is actually operated. American contends that under the standard load-factor adjustment the number of aircraft in the fleet diminishes and that, therefore, the remaining aircraft in the fleet must be utilized more extensively, thereby raising the utilization rate. However, this would be the case only if ASM's remain fixed as under the utilization adjustment. Under the load-factor standard, ASM's do not remain the same, but rather decrease in an amount equal to actual ASM's versus the number required to obtain the standard load factor. Therefore, the decreased number of ASM's is produced from fewer aircraft in the fleet operated at the same level of utilization prior to the adjustment.

The aircraft utilization adjustment has been modified to reflect the disallowance against 75 percent rather than 100 percent of reported investment and interest, since applying the adjustment against 100 percent of investment and interest overstates that portion applicable to flight equipment. The discount-fare adjustment has also been modified to reflect the availability of more detailed data. Specifically, we have been able to separate out regular first-class traffic and revenue so that the adjustment is confined solely to coach/thrift data, where the impact of discount-fare operations actually occurs.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. The complaints in Dockets 28810 and 28879 be and hereby are dismissed; and

2. A copy of this order be served upon American Airlines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., and the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-6243 Filed 3-3-76; 8:45 am]

[Docket No. 25659; Order 76-2-111]

HUGHES AIRWEST

Order; Investigation of the Local Service Class Subsidy Rate; Class Rate VII

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of February 1976.

By this order the Board is providing \$73,069 to Hughes Air Corp. d.b.a. Hughes Airwest (Hughes) in addition to the

subsidy otherwise due and payable to Hughes for the month of June 1974 in order to provide Hughes with a tax allowance for the month of June 1974.

On May 2, 1974, Hughes filed a *pro forma* tax return indicating that it had exhausted its tax loss carryforwards in June of 1974. Based on this *pro forma* tax filing the Board provided Hughes with a tax allowance for the period beginning July 1, 1974 (See Class Rate VII, Amendment 2, Order 74-7-76). On September 18, 1975, Hughes submitted a copy of its Federal income tax return for the calendar year 1974, which indicated that it had exhausted its tax loss carryforwards in May of 1974.

Section III. G. 2. of the rate formula in Order 74-1-123 states that if a carrier's tax return discloses tax liability different from the taxes paid on the basis of the *pro forma* return, the Board will examine the return to determine whether the effective date of the carrier's tax allowance, as established by the *pro forma* return, should be changed. Subsequently, the Board has reviewed Hughes' tax returns and determined that the carrier exhausted all of its loss carryforward credits during May 1974 instead of June 1974 as indicated by the carrier's *pro forma* tax filing.¹

In order to expedite this matter we have decided to provide Hughes with a lump-sum payment of \$73,069² for the tax effect for the month of June 1974.

Accordingly, it is ordered, That

1. Immediately on and after the effective date of this order, Hughes Air Corp. d.b.a. Hughes Airwest be paid subsidy in a lump-sum amount of \$73,069 for the tax allowance for the month of June 1974. This lump-sum payment will be in addition to the subsidy otherwise due and payable to Hughes Air Corp. d.b.a. Hughes Airwest for the month of June 1974; and

2. This order shall become effective on the seventh day after the date of service hereof, unless prior to that date exceptions and supporting reasons shall have been filed. If exceptions and supporting reasons are filed within the time prescribed above, the effective date of this order shall be stayed pending disposition of the exceptions; and

¹Section III. F. of the rate formula in Order 74-1-123 states that the taxes so provided shall be payable commencing on the first day of the month next succeeding the month in which the carrier exhausted all of its available loss carryforward credits. Section III. B. of the rate formula contained in Order 74-1-123 states that unless a carrier is actually incurring liability under the Federal Tax Code it is not eligible to receive an allowance for federal income taxes in its subsidy rate.

²The amounts used to determine the lump sum payment are the daily Federal tax rate of \$2339.73 for 30 days and the daily profit offset provision of \$95.89 for 30 days. The effect of the tax allowance for June 1974 removes the profit offset from ineligible services for the month of June 1974.

3. This order shall be served upon Hughes Air Corp. d.b.a. Hughes Airwest, and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-6241 Filed 3-3-76; 8:45 am]

[Docket No. 27813; Order 76-2-118]

Issued under delegated authority February 27, 1976.

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

This agreement would amend existing Resolution 011, which governs the production of the IATA Mileage Manual, to require submission of nonstop sector data by April 1.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following Resolutions incorporated in Agreement C.A.B. 25710 are adverse to the public interest or in violation of the Act:

IATA RESOLUTION

100 (Mail 995) 011
200 (Mail 277) 011
300 (Mail 468) 011
JT1/2 (Mail 884) 011
JT2/3 (Mail 379) 011
JT3/1 (Mail 303) 011
JT123 (Mail 775) 011

Accordingly, it is ordered, that:

Agreement C.A.B. 25710, be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-6244 Filed 3-3-76; 8:45 am]

[Docket No. 28933; Order 76-2-112]

SHULMAN AIR FREIGHT, INC.**Order of Suspension and Investigation Regarding Tariff Rule Refusing To Accept Numerous Articles**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of February 1976.

By tariff revisions¹ issued January 30 and marked to become effective February 29, 1976, Shulman Air Freight, Inc. (Shulman), an air freight forwarder, proposes to refuse to accept for transportation certain articles of "extraordinary value" and precious metals.² Shulman justifies its proposed nonacceptance on the ground of the "many restrictions placed upon the shipper" by direct carriers, and the additional costs that may occur because of the armed guards and special dispatch of vehicles and personnel required. The forwarder further contends that its proposal would match the rules in effect for certain other forwarders and of the direct carriers. The forwarder expects that, with the end of REA Express's operations, it will be offered many of the commodities which Shulman proposes to deny acceptance.

Upon consideration of all relevant factors, the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that it should be suspended pending investigation.

The proposed nonacceptance of numerous articles of high value would result in a significant reduction in the forwarder's common-carrier responsibility to provide transportation service without adequate justification. The additional costs of armed guards, etc., are not a valid reason for the forwarder's proposed refusal to accept the commodities involved. With respect to direct carriers, none have an absolute prohibition against acceptance of such articles; the restrictions³ that many of such carriers have with respect to acceptance do not

justify a forwarder's complete prohibition of such commodities.

The foregoing action is consistent with recent Board policy wherein it has suspended proposals of both direct and indirect carriers dealing with their refusal to accept certain commodities for shipment.⁴ While it is true that some forwarders have provisions currently in effect similar to those proposed herein, the existence of such provisions established before the Board's present policy became effective does not constitute grounds for permitting additional exclusionary provisions.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions in Rule No. 25 on 3rd Revised Page 5 of C.A.B. No. 20 issued by Shulman Air Freight, Inc., and rules, regulations, or practices affecting such provisions, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 25 on 3rd Revised Page 5 of C.A.B. No. 20 issued by Shulman Air Freight Inc., is suspended and its use deferred to and including May 28, 1976, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. The proceeding herein designated Docket 28933, be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter designated; and

4. Copies of this order shall be filed with the tariff and served upon Shulman Air Freight, Inc., which is hereby made a party to Docket 28933.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board.

[SEAL] **PHYLLIS T. KAYLOR,**
Acting Secretary.

[FR Doc. 76-6242 Filed 3-3-76; 8:45 am]

[Docket No. 26838; Order 76-2-108]

WIEN AIR ALASKA, INC.**Order of Suspension Regarding Priority Reserved Air Freight Rates Investigation**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of February 1976.

By tariff revisions¹ issued January 30 and marked to become effective March 1,

⁴ See Board Orders 76-2-72, 75-11-118, 74-12-86, 74-4-156, 72-11-112, 72-11-10, and 72-8-55.

³ Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 169.

1976, Wien Air Alaska, Inc. (Wien) proposes to increase, inter alia, priority reserved general commodity rates from Anchorage to Prudhoe Bay and from Fairbanks to Nome by approximately 10 percent.

The proposed increased priority rates and charges come within the scope of the "Priority Reserved Air Freight Rates Investigation (PRAFRI)," Docket 26838, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposed increases in priority rates or to permit them to become effective pending investigation.

Although the Board permitted Wien (as well as Continental Air Lines, Inc. and Western Air Lines, Inc.) to establish priority general commodity rates including minimum charges reflecting the 100-pound weight-break priority rate, the Board subsequently found that a 30 percent premium over the applicable rates (whether general or specific commodity rates) was the highest that should be permitted pending decision in "PRAFI" (Orders 75-12-98, December 19, 1975, and 75-12-28, December 5, 1975.)

Wien's proposed priority rates and charges, however, exceed 130 percent of the regular general commodity minimum charges, or, as applicable, specific commodity rates and charges. Furthermore, we believe that Wien should publish an under-100-pound rate applicable to its priority freight service to help eliminate inequities in its current minimum charge structure.

Upon consideration of the above and all other relevant factors, the Board finds that the proposed increased priority general commodity rates and charges should be suspended pending final decision in "PRAFRI."

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the increased priority reserved general commodity (PRF) rates, and the increased minimum charges in connection therewith from Anchorage to Prudhoe Bay on 24th Revised Page 1427; and from Fairbanks to Nome on 11th Revised Page 1433 of Tariff C.A.B. No. 169, issued by Airline Tariff Publishing Company, Agent, are suspended and their use deferred to and including May 29, 1976, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order will be filed with the tariff and served on Wien Air Alaska, Inc.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board.

[SEAL] **PHYLLIS T. KAYLOR,**
Acting Secretary.

[FR Doc. 76-6240 Filed 3-3-76; 8:45 am]

¹ Revisions to Rule No. 25, Tariff C.A.B. No. 20, issued by Shulman Air Freight, Inc.

² Bank Notes; Bills of Exchange; Bonds; Bond Coupons; Deeds or Mortgages; Dental Casting Alloy Containing Gold or Silver; Electronic Paste, containing gold or silver; Evidence of Debt; Gems or Stones, precious or semi-precious, cut or uncut including industrial diamonds or commercial carbons; Money; Pearls; Promissory Notes; Quartz Crystals; Trading Stamps; Transit Tickets or Tokens; Watches and parts thereof, when the declared value exceeds \$1.50 per pound, or \$500.00 per shipment. Also included would be the following precious metals, except within machines dependent upon electronic tubes or transistors for their operation or within parts of such machines: Dore Bullion; Gold Bullion; Dust, Cyanides, Precipitates, Wire or any form of uncoined gold; Iridium; Osmium; Palladium; Platinum; Rhodium; Ruthenium; and Silver Bullion, Dust, Cyanides, Precipitates, Wire or any form of uncoined silver.

³ Thus, most direct carriers require advance arrangements, traffic to be tendered to carrier at least 3 hours prior to departure, etc.

[Docket 28884]

AIRWEST AIRLINES LTD. SMALL AIRCRAFT PERMIT APPLICATION (VICTORIA-SEATTLE)**Prehearing Conference and Hearing**

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on March 30, 1976, at 10:00 a.m. (local time), in Room 1003-C, North Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before March 12, 1976.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., February 26, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 76-6239 Filed 3-3-76; 8:45 am]

**COMMISSION ON CIVIL RIGHTS
MICHIGAN ADVISORY COMMITTEE****Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on March 26, 1976 and will end at 3:30 p.m. on March 27, 1976, at the Kellogg Center for Continuing Education, Michigan State University, East Lansing, Michigan 48823.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 32nd Floor, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to: 1. Review last draft of Model Cities Phase-out report; 2. Review first draft of Sault Ste. Marie hearing report; 3. Review HUD revised regulations; 4. Meet new committee members, and 5. Other old and new business.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 1, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc. 76-6233 Filed 3-3-76; 8:45 am]

**COMMODITY FUTURES TRADING
COMMISSION****ADVISORY COMMITTEE ON DEFINITION
AND REGULATION OF MARKET INSTRUMENTS****Meeting**

Notice is hereby given, pursuant to section 10(a) of the Federal Advisory Com-

mittee Act, 5 U.S.C. App. 1., 10(a), that the Commodity Futures Trading Commission Advisory Committee on Definition and Regulation of Market Instruments ("Advisory Committee on Market Instruments") will conduct an advisory committee meeting on March 18 and 19, 1976, at the Sheraton Carlton Hotel, 16th & K Streets NW., Washington, D.C., in the Mount Vernon Room, beginning at 9:30 a.m. each day. The Cash Commodity Markets Subcommittee will also meet on March 18 at 7:30 p.m. in the Mount Vernon Room. The Advisory Committee on Market Instruments was chartered to consider and submit reports and recommendations to the Commission on the following subjects:

(1) Appropriate standards to be utilized by the Commission in regulating forms of transactions that are subject to the Commodity Exchange Act, as amended, including consideration of such matters as:

(i) Appropriate standards to be utilized by the Commodity Futures Trading Commission regarding the definition of commodity futures contracts; and

(ii) Appropriate restrictions or prohibitions for options relating to commodity transactions and margin or leverage transactions subject to section 217 of the CFTC Act.

(2) Responsibilities of the Commission over cash commodity markets. This will include consideration of such matters as:

(i) Contracts for forward delivery;
(ii) Cash market manipulations; and
(iii) Data and reporting needs for cash markets.

The summarized agenda for meeting of the full Committee is as follows:

The Committee will seek to approve its recommendations to the Commission with respect to commodity options trading.

The Committee will also seek to approve its recommendations to the Commission with respect to what regulations are necessary to regulate adequately leverage transactions. Finally, the Committee will seek to approve a subcommittee study of the essential elements of futures, forward and leverage contracts.

The summarized agenda for the Cash Commodity Markets Subcommittee is as follows:

The subcommittee will seek to approve its recommendation to the full Committee on the implementation of the cash market antifraud and antimanipulation authority under the Commodity Exchange Act, as amended. The subcommittee will also seek to approve its recommendation to the full Committee regarding the cash price and supply data and reporting needs of the Commission.

All meetings are open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to Mrs. Harrison, The Advisory Committee on Market Instruments, Commodity Futures Trading Commission,

1120 Connecticut Avenue NW., Washington, D.C. 20036, by March 15, 1976.

The Commission is maintaining a list of persons interested in the operations of this advisory committee and will mail notice of the meetings to those persons. Interested persons may have their names placed on this list by writing DeVan L. Shumway, Director, Office of Public Information, Commodity Futures Trading Commission, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

Dated: March 1, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures
Trading Commission.

[FR Doc. 76-6234 Filed 3-3-76; 8:45 am]

**REGULATION OF COMMODITY OPTION
TRANSACTIONS REGISTRATION; FRAUD****Public Hearing**

In FR Doc. 76-4730 appearing on page 7774 in the FEDERAL REGISTER of February 20, 1976, the Commodity Futures Trading Commission announced that public hearings on commodity option transactions will be held on March 8, 1976 at 10 a.m. The location of this hearing will be Room 2008, the New Executive Office Building, 17th and Pennsylvania Avenue, Washington, D.C.

Dated: March 1, 1976.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc. 76-6236 Filed 3-3-76; 8:45 am]

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL 499-1; OPP-42011]

COMMONWEALTH OF PENNSYLVANIA**Submission of State Plan for Certification
of Pesticide Applicators**

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 [39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)], the Honorable Milton J. Shapp, Governor of the Commonwealth of Pennsylvania, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending promulgation of implementing regulations.

Notice is hereby given of the intention of the Regional Administrator, EPA Region III, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

Room 3323, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Pesticides Branch, U.S. Environmental Protection Agency, Region III, Phone: 215/597-9869.

Agriculture Office Building, 2301 N. Cameron Street, Harrisburg, Pennsylvania 17120, Bureau of Plant Industry, Pennsylvania Department of Agriculture, Phone: 717/787-4392.

Room 401, East Tower, 401 "M" Street SW., Washington, D.C. 20460, Office of Pesticide Programs, Federal Register Section, Phone: 202/755-4854.

SUMMARY OF PENNSYLVANIA STATE PLAN

The Pennsylvania Department of Agriculture (PDA) has been designated as the State lead agency for the administration of the pesticide certification program, including enforcement activities. The Pennsylvania Pesticide Advisory Board advises the Secretary of Agriculture on any or all problems relating to the use and application of pesticides.

Cooperating agencies include the State Cooperative Extension Service, the Pennsylvania Department of Environmental Resources, the Pennsylvania Fish Commission, and the Pennsylvania Game Commission. The Extension Service will cooperate by developing and conducting educational programs leading to certification for both private and commercial pesticide applicators; the Pennsylvania Department of Environmental Resources will cooperate by assisting in the development of regulations relating to the storage and disposal of pesticides and pesticide containers; representatives of the Pennsylvania Fish Commission and the Pennsylvania Game Commission will cooperate as active members on the Pesticide Advisory Board.

Legal authority for the program is contained in the "Pennsylvania Pesticide Control Act of 1973" (PPCA) and the proposed Regulations to be promulgated therefrom.

The plan indicates that the State lead agency and cooperating agencies have sufficient qualified personnel and funds needed to carry out the proposed program. The funding in support of the program, available for FY 1975-76, is \$292,000.

The State estimates that 5,750 commercial applicators and 50,520 private applicators will need to be certified.

Identification permits similar to ID cards containing all necessary information will be furnished all applicators to present to the dealer at the time of restricted use pesticide purchase.

The State lead agency will submit an annual report to the EPA on or about January 30 of each year covering the previous calendar year.

The commercial applicator categories proposed are those which are listed in 40 CFR 171.3. Individuals may apply for a license as either an aerial applicator or ground applicator (or both) in each of these categories. Subcategories proposed in the State plan are as follows:

(1) Agricultural Pest Control: (a) Plant: (1) Agronomic; (2) Fruit; (3) Vegetables.

(3) Ornamental and Turf Pest Control: (a) Ornamental and Shade Trees; (b) Lawn and Turf.

(7) Industrial, Institutional, Structural and Health Related Pest Control: (a) Household; (b) Wood Destroying Pests; (c) Fumigation; (d) Weeds.

(8) Public Health Pest Control: (a) Vertebrate Pests; (b) Invertebrate Pests.

The Commonwealth of Pennsylvania plans to certify commercial applicators by means of two written examinations, one covering the general standards or "core" material [40 CFR 171.4(b) and 171.6], and the other covering the specific standards for each category or subcategory [40 CFR 171.4(c)].

Home study training material for commercial applicators covering the Federal Standards (40 CFR 171.4 and 171.6) will be made available by the Cooperative Extension Service (CES). These standards are set forth in detail in the Pennsylvania State University Correspondence Course #181 and in specific category/subcategory manuals prepared by the Pennsylvania CES. In addition, materials developed by industry associations and approved by PDA will be acceptable for training. Face-to-face instruction will be made available for those individuals who feel the need for additional training over and above the "home study" training.

Certification exams will be conducted by qualified State agents at State regional offices and at various industry, association, or related meetings.

Private applicators (agricultural commodity producers) will be certified by satisfactorily completing the Pennsylvania State Correspondence Course #181, entitled "Pest Management and Environmental Quality". This self-study course is based on EPA private applicator standards (40 CFR 171.5 and 171.6) and has been adopted as the procedure for training and examining private applicators in Pennsylvania. Brochures explaining this course and examination are available at all PDA and CES offices throughout the State.

An optional procedure for certifying a private applicator unable to read or write English will be to issue a "Special Permit". Testing for special permits will be conducted by verbal questioning by a recognized State agent. Standards of competency by this method will meet the requirements as provided for in 40 CFR 171.5. Such a permit will be valid for no more than 6 months and will allow the use of only the particular restricted use pesticide for which the applicant was tested.

Sample examination questions are exhibited in the plan as provided for by 40 CFR 171.7(e) (1) (i) (D) and (ii) (C). However, in view of the need to preserve the confidentiality of the examination format, the Commonwealth of Pennsylvania has requested that these exhibits not be made available for public inspection. The Agency agrees with this position and has removed the samples from the public inspection copies of the plan.

The Pennsylvania State Plan also indicates that within 60 days of the final approval of the Government Agency

Plan (GAP) by EPA, a statement concerning acceptance of GAP qualified Federal employees will be forwarded for inclusion in the State plan.

State plans for State adjoining Pennsylvania are not sufficiently developed to properly address the issue of reciprocity; when such are considered, any reciprocal agreements will be submitted as amended to the Pennsylvania Plan.

Other regulatory activities listed in the State plan which will supplement the Pennsylvania certification program are provisions for the licensing of pesticide dealers who sell pesticides which are classified for restricted use (Section 12-PPCA); provisions for collection, examination, and reporting of samples of pesticides or devices (Section 7(b)(1), PPCA); provisions for penalties to be enforced for the misuse of pesticides (Sections 29 and 30, PPCA); and provisions for the establishment of a Pesticide Advisory Board (Section 25, PPCA).

With respect to the maintenance of the State plan, certain provisions have been made to assure that certified applicators comply with standards. For this purpose, a total of 10 State Department of Agriculture inspectors will be assigned to the seven regional offices and will spot check private and commercial applicators to insure compliance with Federal and State laws and regulations. These inspectors will also sample pesticides at the retail outlets and take bulk samples of tank mixes at the site of application. They will also be responsible for follow-up reports of suspected violations.

To assure that certified applicators maintain a continued level of competence, the State plan provides that at least every three years, certified applicators will be required to receive upgrade training through attendance at conferences conducted by Penn State University or State approved industry sponsored pesticide meetings. Failure to meet this requirement will necessitate re-examination.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the Commonwealth of Pennsylvania to the Chief, Pesticides Branch, Region III, U.S. Environmental Protection Agency, 6th & Walnut Streets, Room 3323, Philadelphia, Pennsylvania 19106. The comments must be received on or before April 5, 1976, and should bear the identifying notation OPP-42011. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: February 6, 1976.

A. R. MORRIS,
Deputy Regional Administrator,
U.S. Environmental Protection
Agency, Region III.

[FR Doc.76-6295 Filed 3-3-76;8:45 am]

[FRL 499; 2 PP6G1666/T83]

TEMEPHOS**Notice of Establishment of a Temporary Tolerance**

American Cyanamid Co., PO Box 400, Princeton NJ 08540, has submitted a pesticide petition (PP 8G1666) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the insecticide temephos (O,O-(thiodi-4,1-phenylene) bis (O,O-dimethyl phosphorothioate) and its sulfoxide metabolite (O,O,O',O'-tetramethyl O,O'-sulfonyldi-p-phenylene phosphorothioate) in the fat of cattle at 0.1 part per million (ppm). Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported in the petition has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the tolerance will protect the public health. The temporary tolerance is established for the insecticide, therefore, with the following provisions:

1. The total amount of the insecticide to be used must not exceed the quantity authorized by the experimental use permit.
2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires February 19, 1977. Residues not in excess of 0.1 ppm remaining in or on the above raw agricultural commodity after expiration of this temporary tolerance will not be considered actionable if the insecticide has been legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this insecticide indicate such revocation is necessary to protect the public health.

Dated: February 19, 1976.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

JOHN B. RITCH, Jr.
Director, Registration Division.

[FR Doc. 76-6296 Filed 3-3-76; 8:45 am]

EXPORT-IMPORT BANK OF THE UNITED STATES**PRIVACY ACT OF 1974****Systems of Records**

The "Routine Uses" portion of each system of records covered by the "Notice

of Systems of Records" published in the FEDERAL REGISTER Volume 40, No. 167 of August 27, 1975, is hereby amended by adding the following language thereto:

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

Public comment is solicited on this amendment and should be submitted by April 3, 1976, to the Export-Import Bank of the United States, Vice President—Administration, 811 Vermont Avenue, NW., Room 1031, Washington, D.C. 20571.

FRANCIS P. COLLINS,
Vice President—Administration.

FEBRUARY 3, 1976.

[FR Doc. 76-6196 Filed 3-3-76; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-520]

ARKANSAS-MISSOURI POWER CO.**Notice of Filing of Boundary Line Agreement**

FEBRUARY 27, 1976.

Take notice that on February 18, 1976, Arkansas-Missouri Power Company (Ark-Mo) tendered for filing with the Commission a Boundary Line Agreement between Ark-Mo and Union Electric Company (Union) dated December 1, 1975. Also submitted was a Certificate of Concurrence to that agreement by Union dated December 30, 1975.

Ark-Mo states that the Boundary Line Agreement, which supersedes a letter agreement between Ark-Mo and Union dated April 26, 1950, provides a basis whereby each utility may secure economies in service areas in which they have a common boundary through service across the boundary line from the adjacent utility. Energy transmitted under the Boundary Line Agreement will be billed by the net selling utility on the basis of the average price paid by Ark-Mo to Union on the Union W-2 rate, plus ten percent of such price for administrative costs. It is estimated that Ark-Mo will receive \$16,200 under the Boundary Line Agreement during 1976.

Ark-Mo has requested waiver of Section 35.3 of the Commission's regulations in order to permit the Boundary Line Agreement to become effective as of December 1, 1975. Ark-Mo has also requested waiver of Section 35.13(b)(1) of the Commission's regulations with respect to detailed sales and revenue calculations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must

file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-6361 Filed 3-3-76; 8:45 am]

[Docket No. RP72-142]

CITIES SERVICE GAS CO.**Notice of Proposed Changes in FPC Gas Tariff**

FEBRUARY 27, 1976.

Take notice that Cities Service Gas Company (Cities Service) on February 23, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment provision in Article 21 of its FPC Gas Tariff and Ordering Paragraph (C) of the Commission's Opinion No. 749, issued December 31, 1975, it proposes to increase its rates effective March 23, 1976, to reflect increased purchased gas costs. Cities Service states that such increased rates are reflected on the two Third Alternate Twelfth Revised Tariff Sheets PGA-1, as hereinafter described.

One of the two tariff sheets is Third Alternate Twelfth Revised Sheet PGA-1 which reflects a current adjustment of 7.03¢ per Mcf and a cumulative adjustment of 15.31¢ per Mcf. Such sheet reflects producer supplier rate changes, as permitted by said Opinion No. 749, and further reflects the amortization of the deferred purchased gas cost account balance estimated at March 22, 1976. The other tariff sheet, Alternate Third Alternate Twelfth Revised Sheet PGA-1, is identical to Third Alternate Twelfth Revised Sheet PGA-1, except that the deferred purchased gas cost account balance at October 22, 1976, is utilized in calculating the unit amortization.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-13.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-6362 Filed 3-3-76; 8:45 am]

[Docket No. RP76-13; RP72-142]

CITIES SERVICE GAS CO.**Notice of Proposed Revisions in Rate Increase**

FEBRUARY 27, 1976.

Take notice that on February 23, 1976, Cities Service Gas Company (Cities Service), tendered for filing revised tariff sheets in Docket No. RP76-13. Such sheets are designated Substitute Thirteenth Revised Sheet PGA-1 and Third Revised Sheet No. 37D. Also filed as an alternative to Substitute Thirteenth Revised Sheet PGA-1 is Alternate Substitute Thirteenth Revised Sheet PGA-1.

Cities Service states that the purpose of these tariff sheets is to incorporate the current purchased gas costs and the current deferred purchase gas cost balance in the rates currently under suspension in Docket No. RP76-13.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP76-13 and RP72-142.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-6363 Filed 3-3-76;8:45 am]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.**Notice of Proposed Changes in FPC Gas Tariff**

FEBRUARY 27, 1976.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on February 17, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, to be effective March 18, 1976. The proposed tariff sheets make no changes in rates or charges, but does propose to purport to conform language in the Purchased Gas Cost Adjustment and the Research and Development Cost Adjustment provision of Consolidated's tariff to current Commission Regulations under the Natural Gas Act, as amended by Order 535, and to Commission orders, particularly Opinion 703.

Copies of the filing were served upon Consolidated's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-6364 Filed 3-3-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN**MEETING**

Notice is hereby given, pursuant to PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on March 19, 1976 from 9:00 a.m.-5:00 p.m., and on March 20, 1976 from 9:30 a.m.-2:30 p.m. The meeting will be held at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is for the Council to receive briefings on proposed and pending legislation which impact compensatory education programs from Federal officials and private citizens, and the effect of the plans for transitional quarter funding on Title I and other compensatory education programs.

Because of limited space, all persons wishing to attend should call for reservations by March 14, 1976, Area Code 202/382-6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on March 1, 1976.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.76-6256 Filed 3-3-76;8:45 am]

NATIONAL COMMUNICATIONS SYSTEM**TELECOMMUNICATIONS: CODING, MODULATION AND TRANSMISSION REQUIREMENTS FOR SINGLE CHANNEL MEDIUM AND HIGH FREQUENCY RADIOTELEGRAPH SYSTEMS USED IN GOVERNMENT MARITIME MOBILE SERVICE****Proposed Federal Standard 1035**

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On 14 August 1972, the National Communications Systems (NCS)¹ was designated by the Administrator, GSA, as the responsible agent for the development of Federal Standards for NCS interoperability and the computer-communication interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of NCS to accomplish this mission.

Prior to formal coordination and submission of the final endorsement of the proposed Federal Standard to the Office of Telecommunications Policy (OTP), Executive Office of the President, and GSA, it is essential that proper consideration be given to the needs and views of industry, the public, and state and local governments. The purpose of this notice is to solicit such views. Interested parties may submit their comments to the Office of Technology and Standards, National Communications System, Washington, D.C. 20305. All comments should be submitted by April 16, 1976.

LEE M. PASCHALL,
Lieutenant General, USAF,
Manager.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptroller).

MARCH 1, 1976.

PROPOSED FEDERAL STANDARDS 1035
(FEBRUARY 10, 1976)

Telecommunications: Coding, Modulation and Transmission Requirements for Single Channel Medium and High Frequency Radiotelegraph Systems Used in Government Maritime Mobile Service

This proposed Federal Standard has not yet been approved and is subject to modification. DO NOT USE PRIOR TO APPROVAL.

1. General information.

1.1 Scope. This standard establishes minimum requirements for single channel, narrowband, medium and high frequency (300 KHz-30 MHz) radiotelegraph systems used in Government mari-

¹ DoD Directive 5100.41 "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

time mobile telecommunications. Manual on-off keying (i.e., Morse code operation) is not within the scope of this standard.

1.2 *Purpose.* The purpose of this standard is to facilitate the interoperability of maritime mobile telecommunication facilities of the Federal Government.

1.3 *Application.* This standard shall be used, to the extent specified herein, by all Federal departments and agencies in the design and procurement of maritime mobile radiotelegraph systems for medium and high frequency operation.

2. Requirements.

2.1 Capability shall exist for transmission and reception of signals conforming to International Alphabet #2 code at a modulation rate of either 74.2 or 75 baud.

2.2 Class F1 emission, with a frequency shift of 170 Hz between mark and space signals, shall be used for transmission of the telegraph signal over the radio path. The lower of the two frequencies emitted from radio transmitters shall correspond to a binary 1 (mark), while the higher of the frequencies shall correspond to a binary 0 (space).

2.3 The frequency tolerance of transmitted radio signals shall be $\pm 1\frac{1}{2}$ parts per million for ship stations and shall be $\pm \frac{1}{2}$ parts per million for shore stations. The frequency tolerance of the receivers at ship and shore stations shall likewise be $\pm 1\frac{1}{2}$ parts per million and $\pm \frac{1}{2}$ parts per million, respectively. These tolerance requirements shall apply to equipment installed after 1 December 1976 and to all equipment in use after January 1983.

2.4 Capability shall exist for interoperation of ship telegraph equipment with nonradio telecommunication facilities when the vessel is in port. Interoperation shall be as Data Terminal Equipment (DTE) interfacing Data Communications Equipment (DCE) and shall employ serial binary data interchange (see Federal Standards 1020, and 1030).

3. *Changes.* When a Federal agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration, Federal Supply Service, Washington, D.C. 20406, in accordance with provisions of Federal Property Management Regulations 41 CFR 101-29.3. The General Services Administration will determine the appropriate action to be taken and will notify the agency.

Preparing Activity: National Communications System, Office of Technology and Standards, Washington, D.C. 20305

This document is available from the General Services Administration (GSA), acting as agent for the Superintendent of Documents. A copy for bidding and contracting purposes is available from GSA Business Services Centers. Copies are for sale at the GSA, Specification Sales, Building 197 (Washington Navy Yard), Washington, D.C. 20407 for cents each.

[FR Doc.76-6193 Filed 3-3-76; 8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

RESEARCH GRANTS PANEL

Meeting

JANUARY 19, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. from 9:30 a.m. to 6:00 p.m. on March 19, 1976.

The purpose of the meeting is to review Research Materials applications in the field of editing submitted to the National Endowment for the Humanities for projects beginning after July 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-6199 Filed 3-3-76; 8:45 am]

RESEARCH GRANTS PANEL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. on March 26, 1976 and April 2, 1976, from 9:30 a.m. to 6:00 p.m. on both days.

The purpose of the meeting is to review Research Materials applications to develop research tools submitted to the National Endowment for the Humanities for projects beginning after July 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-6200 Filed 3-3-76; 8:45 am]

RESEARCH GRANTS PANEL

Meeting

FEBRUARY 10, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. from 9:00 a.m. to 5:30 p.m. on April 2, 1976.

The purpose of the meeting is to review General Research applications in the field of Literature submitted to the National Endowment for the Humanities for projects beginning after July 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-6201 Filed 3-3-76; 8:45 am]

RESEARCH GRANTS PANEL

Meeting

FEBRUARY 10, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. from 9:00 a.m. to 5:30 p.m. on March 26, 1976.

The purpose of the meeting is to review General Research applications in the field of Archaeology submitted to the National Endowment for the Humanities for projects beginning after July 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly un-

warranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-6201 Filed 3-3-76;8:45 am]

RESEARCH GRANTS PANEL

Meeting

FEBRUARY 10, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. from 9:00 a.m. to 5:30 p.m. on March 22, 1976.

The purpose of the meeting is to review General Research applications in the field of History submitted to the National Endowment for the Humanities for projects beginning after July 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-6203 Filed 3-3-76;8:45 am]

NATIONAL SCIENCE FOUNDATION SUBGROUP ON FOOD AND NUTRITION

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subgroup on Food and Nutrition of the Advisory Groups on Contributions of Technology to Economic Strength, and Anticipated Advances in Science and Technology.

Date and time: March 23, 1976, 9 a.m. to 3 p.m. PST.

Place: Committee Room in Building 200 of the Ames Research Center, Moffett Field, California.

Type of meeting: Open.

Contact person: Dr. Richard C. Staples, Policy Research and Analysis Division, National Science Foundation, Washington, D.C. 20550, tel: 202-632-7805; or Dr. J. Lloyd Jones, Planning & Analysis Office, Ames Research Center, Moffett Field, Calif. 94035, tel: 414-965-5566.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of meeting: To review the list of issues and develop a list of the most important potential policy recommendations to be made to the two advisory groups on Science and Technology in the area of food and nutrition. For this purpose, the committee will focus on the policies or commitments that this country has either consciously or unconsciously followed in the fields of food production and distribution especially with regard to our ability to feed ourselves, to help the rest of the world to feed itself, to help to relieve acute famines elsewhere in the world and to improve our financial and political position in the world. In addition, the committee will develop a list of consultants with appropriate backgrounds in topical areas such as food production, processing, distribution, consumption, and nutrition for reviewing and commenting on potential recommendations.

Agenda:

- 9:00—Remarks by the Chairman.
- 9:15—Subgroup discussion of major issues.
- 10:45—Subgroup discussion to complete list of most important potential recommendations.
- 12:00—Recess.
- 1:00—Subgroup discussion to develop list of consultants.
- 2:00—Consideration of future activities.
- 3:00—Adjournment.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

MARCH 1, 1976.

[FR Doc.76-6220 Filed 3-3-76;8:45 am]

UTILITY ADVISORY PANEL

Determination of Renewal

The National Science Foundation (NSF) is renewing the Utility Advisory Panel in accordance with the Federal Advisory Committee Act (P.L. 92-463), and the Office of Management and Budget (OMB) Circular A-63, Revised.

After review of the panel's activities, I have determined that the renewal of the Utility Advisory Panel for one additional year is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable laws.

H. GUYFORD STEVER,
Director.

MARCH 1, 1976.

[FR Doc.76-6219 Filed 3-3-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-10]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Notice of Availability and Receipt

Aircraft Accident Reports and Recommendations—

The near-collision of an American Airlines DC-10 and a Trans World Airlines Lockheed 1011, near Carleton, Michigan, November 26, 1975, is the subject of National Transportation Safety Board report No. NTSB-AAR-76-3, released February 25. The Board found that the probable cause of the near-collision was the failure of the radar controller to apply prescribed separation criteria when he first became aware of a potential traffic conflict which necessitated an abrupt collision avoidance maneuver. "He also allowed secondary duties to interfere with the timely detection of the impending traffic conflict when it was displayed clearly on his radarscope," the Board stated. Contributing to the accident was an incomplete sector briefing during the change of controller personnel—about 1 minute before the accident. As a result of the investigation, the Board also issued on February 25 a letter to the Federal Aviation Administration recommending that FAA distribute the Safety Board's report on this near-collision accident to all FAA Air Traffic Control personnel and discuss it in their training programs in order to alert them to the catastrophic potential of distraction. The Class I recommendation, No. A-76-3, calls for "urgent followup."

Investigation of the Wien Air Alaska Fairchild F-27B crash on St. Lawrence Island, Alaska, last August 30 has resulted in report No. NTSB-AAR-76-1, released by the Safety Board February 25. The crash into Sevuokuk Mountain occurred while Flight 99 was attempting to land in adverse weather conditions at Gambell Airport. The Board found that the probable cause of the accident was the flightcrew's failure to adhere to prescribed company instrument approach procedures. As a result of the investigation, on February 8 the Board issued two Class II (priority followup) recommendations, Nos. A-76-1 and 2, to the FAA. (See 41 FR 7600, February 19, 1976.)

Pipeline Accident Report—

The Southern Union Gas Company gas transmission pipeline failure near Farmington, New Mexico, March 15, 1974, is the subject of Board report No. NTSB-PAR-75-3, released February 22, 1976. The Board determined that the probable cause of the accident was the brittle fracture of a longitudinal flash weld that had been weakened by localized crevice corrosion. Investigation of this accident prompted the Board to issue on January 23, 1976, a Class II recommendation, No. P-76-2, to the U.S. Department of Transportation. (See 41 FR 4366, January 29, 1976.)

Pipeline Safety Recommendation Letter—

Two Class I recommendations were issued February 24 by the Safety Board

to the Nebraska Natural Gas Company of Fremont, Nebraska. The "urgent followup" recommendations, Nos. P-76-3 and 4, were prompted by the Board's investigation of the explosion of the Pathfinder Hotel in Fremont, January 10, 1976. Investigation disclosed that a 2-inch plastic gas main had pulled out of its compression coupling at the intersection of Sixth and Broad Streets, about 15 feet from the northwest corner of the hotel basement. The pipe had pulled out of its 6-inch-long compression coupling after the pipe had contracted in length 2½ inches. Natural gas, leaking from the pipe at 13-psig pressure and capped above by frozen earth and the concrete road surface, seeped into the hotel basement. The Board recommended that the Nebraska Natural Gas Company (1) review its entire system to see if pipe has pulled out of its coupling elsewhere and to rectify any potentially hazardous conditions found, and (2) conduct tests below the frost level during this review of the system to monitor all plastic pipe joints made with short compression couplings where pullout and resultant gas leaks could occur.

Letters in Response to Safety Board Recommendations—

Federal Aviation Administration letter of February 2 addresses recommendation A-75-84 (40 FR 55394, November 28, 1975). FAA states that Air Carrier Operations Bulletin 73-1, dated May 7, 1973, will be updated to specify that (1) training mockups used to satisfy the requirements of FAR 121.417(c) (4) be a realistic duplication of the exits on the aircraft and include the actual forces involved in opening exits in the emergency mode; (2) training procedures accurately simulate emergency conditions; and (3) during initial and recurrent training, flight attendants be instructed in the additional forces that will be involved when opening exits in the emergency mode with evacuation slide pack attached, and under other adverse circumstances such as unusual cabin/deck angle, high wind, structural deformation, etc. FAA concludes, "Additionally, we will continue to encourage the air carriers to utilize training mockups, where feasible, in an effort to augment flight attendant initial and recurrent emergency training programs and further facilitate the transfer of learning experiences. We expect to issue the revised Operations Bulletin in February 1976."

Coast Guard's letter of February 19 responds to recommendation 69-M-60, issued July 8, 1969, in the Board's marine casualty report concerning explosion and fire on Continental Oil Rig Platform 43-A in the Gulf of Mexico, October 24, 1967, and recommendation 71-M-28 issued October 7, 1971, in marine casualty report concerning explosion and fire on the Chambers and Kennedy Offshore Oil Platform and fire on the M/V CARRYBACK, May 28, 1970, also in the Gulf of Mexico. The Coast Guard letter informs that proposed regulations for mobile drilling units are now in final draft stage, to become effective during 1976. Coast

Guard states, "With regard to the fixed drilling and production units the Coast Guard, together with the Department of Interior, have evaluated their regulations to determine the need for any revisions or additions. In addition to the amending of its regulations for lifesaving appliances on unmanned platforms by the U.S. Coast Guard, the Department of Interior has continued its program for revision of their regulations as needed by publishing proposed Outer Continental Shelf Order No. 14 and has recently proposed major revisions to Outer Continental Shelf Order No. 8." In addition, Coast Guard and the U.S. Geological Survey have initiated joint discussions regarding safety of operations on the Outer Continental Shelf and need for fixed platform requirements.

The accident reports and pipeline safety recommendation letter are available to the general public; single copies may be obtained without charge. Copies of letters responding to recommendations may be obtained at a cost of \$4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication in this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a) (2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172) (49 U.S.C. 1903, 1906))

MARGARET L. FISHER,
Federal Register Liaison Officer.

MARCH 1, 1976.

[FR Doc. 76-6260 Filed 3-3-76; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO. Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-51 issued to Arkansas Power and Light Company which revised Technical Specifications for operation of Arkansas Nuclear One, Unit 1, located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment eliminates the discharge sampling station for the ichthyoplankton entrainment program and incorporates the assumption of 100% mortality of entrained ichthyoplankton. The amendment retains sampling of station intake. Continued sampling of the intake with the assumption of 100% mortality will permit a conservative assessment of entrainment impact to be made.

The application for the amendment complies with the standards and require-

ments of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 12, 1975, and (2) Amendment No. 11 to License No. DPR-51. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of February 1976.

For the Nuclear Regulatory Commission.

D. L. ZIEMANN,
Chief, Operating Reactor
Branch No. 2, Division of Operating Reactors.

[FR Doc. 76-6223 Filed 3-3-76; 8:45 am]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO. Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised Technical Specifications for operation of the Arkansas Nuclear One—Unit 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment establishes Limiting Conditions for Operation and Surveillance Requirements for safety related filter systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of

this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 7, 1975, (2) Amendment No. 10 to License No. DPR-51, (3) the Commission's concurrently issued related Safety Evaluation, and (4) the Commission's letter to the licensee dated January 10, 1975. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors
Branch #B, Division of Operating Reactors.

[FR Doc. 76-6229 Filed 3-3-76; 8:45 am]

[Docket Nos. 50-275 and 50-323]

PACIFIC GAS AND ELECTRIC COMPANY (DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2)

Order Extending Construction Completion Dates

Pacific Gas and Electric Company is the holder of Construction Permits CPPR-39 and CPPR-69 issued by the Nuclear Regulatory Commission on April 23, 1968 and December 9, 1970, respectively, for construction of the Diablo Canyon Nuclear Power Plant, Units 1 and 2, presently under construction on the applicant's site in San Luis Obispo County, California.

On May 19, 1975, Pacific Gas and Electric Company filed a request for an extension of the completion dates. On July 16, 1975, the Commission's staff requested additional information regarding the reasons for the delays. On August 8, 1975, Pacific Gas and Electric Company filed a revised request containing more detailed information in support of the extensions.

Construction of the units has been delayed by six months due to strikes by construction crafts which essentially shut the plant down for four months. When the strikes terminated, only approximately forty percent (40%) of the original work force returned to work. It took about five weeks to remobilize the work

force back to pre-strike level, including the recruiting of replacement craft labor, retraining, and requalification of welders.

Construction of the units has been delayed an additional six months due to (1) replacement of the copper-nickel tubes in the main condensers and modifications to the circulating water system, (2) addition of pipe rupture restraints outside the containment and associated relocation and retesting of electrical circuits, (3) long lead times for additional materials such as electrical cable that was required for relocating electrical circuits, (4) improvements and modifications to certain equipment during preoperational and startup testing and (5) modifications to the steam generators and piping.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated.

For further details with respect to this action, see (1) the applicant's request for extension of the completion dates dated May 19, 1975 and (2) the Staff's related evaluation, all of which are available for public inspection at the Commission's Public Document Room and at the Local Public Document Rooms for inspection and copying.

It is hereby ordered that the latest completion date for CPPR-39 is extended from July 1, 1975 to July 1, 1976 for Unit 1 and the latest completion date for CPPR-69 is extended from July 31, 1976 to July 31, 1977 for Unit 2.

Date of Issuance: February 25, 1976.

For the Nuclear Regulatory Commission.

WALTER R. BUTLER,
Acting Assistant Director for
Light Water Reactors, Division
of Project Management.

[FR Doc. 76-6232 Filed 3-3-76; 8:45 am]

[Docket Nos. 50-461 and 50-462]

ILLINOIS POWER CO. (CLINTON POWER STATION, UNITS 1 AND 2)

Issuance of Construction Permits

Notice is hereby given that, pursuant to the Partial Initial Decision and Initial Decision of the Atomic Safety and Licensing Board, dated September 30, 1975, and February 20, 1976, respectively, the Nuclear Regulatory Commission (the Commission) has issued Construction Permits Nos. CPPR-137 and CPPR-138 to the Illinois Power Company for construction of two boiling water nuclear reactors at its site in DeWitt County, Illinois. The proposed reactors, known as the Clinton Power Station, Units 1 and 2, are each designed for a rated power of 2894 megawatts thermal with a net electrical output of about 933 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal

Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their dates of issuance. The earliest date for the completion of Unit 1 is October 1, 1980, and the latest date for completion is October 1, 1981. The earliest date for completion of Unit 2 is October 1, 1983, and the latest date for completion is October 1, 1985. The permits shall expire on the latest dates for completion of the facilities.

A copy of (1) the Partial Initial Decision, dated September 30, 1975, and the Initial Decision dated February 20, 1976; (2) Construction Permit Nos. CPPR-137 and CPPR-138; (3) the report of the Advisory Committee on Reactor Safeguards, dated April 8, 1975; (4) the Office of Nuclear Reactor Regulation's Safety Evaluation dated March 1975 and Supplement 1 thereto, dated December 1975; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report dated October 26, 1973, and supplements thereto; (7) the Draft Environmental Statement dated June 1974; and (8) the Final Environmental Statement dated October 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. A copy of the construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation (Document No. NUREG-75/013) may be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 24th day of February 1976.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors
Branch No. 1, Division of
Project Management.

[FR Doc. 76-6227 Filed 3-3-76; 8:45 am]

[Docket Nos. 50-516 and 50-517]

LONG ISLAND LIGHTING CO. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Order Scheduling a Prehearing Conference

A prehearing conference will be held at 9:30 a.m. (local time) on March 25, 1976, at the Holiday Inn of Riverhead,

Exit 72, Long Island Expressway, Riverhead, Long Island, New York. The primary subject that will be considered is the scheduling of the 10 CFR § 2.752 prehearing conference and the evidentiary hearing.

The public is invited. No limited appearance statements will be taken at the prehearing conference but will be called for later at the evidentiary hearing.

It is so ordered.

Dated at Bethesda, Maryland this 27th day of February 1976.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.76-6231 Filed 3-3-76;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Provisional Operating License No. DPR-21 issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, (the licensee) which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1, located in the town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment modifies the license by deleting the restriction concerning operation at certain power levels for specific core average burnups, and by revising the Technical Specifications, following modification to the safety/relief valve configuration.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration. The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 9, 1975, (2) Amendment No. 20 to License No. DPR-

21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23 day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch #3, Division of Operating Reactors.

[FR Doc.76-6223 Filed 3-3-76;8:45 am]

REGULATORY GUIDE Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.92, Revision 1, "Combining Modal Responses and Spatial Components in Seismic Response Analysis," describes methods acceptable to the NRC staff for (1) combining the values of the response of individual modes in a response spectrum modal dynamic analysis to find the representative maximum value of a particular response of interest for the design of a given element of a nuclear power plant structure, system, or component and (2) combining the maximum values (in the case of time-history dynamic analysis) or the representative maximum values (in the case of spectrum dynamic analysis) of the response of a given element of a structure, system, or component when such values are calculated independently for each of the three orthogonal spatial components. This revision reflects comments received from the public and other factors.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland this 24th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-6226 Filed 3-3-76;8:45 am]

[Docket No. 40-6622]

UTAH INTERNATIONAL, INC., URANIUM MILL

Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to License SUA-441 for Utah International Uranium Mill, Shirley Basin, Wyoming. The amendment would allow the construction and use of a new starter dike to provide additional capacity to store the mill tailing waste.

The Commission has prepared an environmental impact appraisal for the proposed use of the tailings system and has concluded that an environmental impact statement for this particular action is not warranted because the incremental environmental impact attributable to the proposed action does not significantly add to the impacts already predicted and described in the Commission's Final Environmental Statement for Utah International Uranium Mill published in December 1974.

The environmental impact appraisal (NR-FM-006) is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Carbon County Public Library, Court House, Rawlins, Wyoming. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Bethesda, Maryland, this 27th day of February 1976.

For the Nuclear Regulatory Commission.

RICHARD B. CHITWOOD,
Chief, Facility Environmental
Assessment Branch, Division
of Fuel Cycle and Material
Safety.

[FR Doc.76-6225 Filed 3-3-76;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.**Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station, located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment revises the definition of "Surveillance Frequency" in the Technical Specifications to increase the interval for instrumentation and electrical surveillance from 15 to 18 months.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 23, 1975, (2) Amendment No. 19 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of February, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch
No. 4, Division of Operating
Reactors.

[FR Doc.76-6224 Filed 3-3-76; 8:45 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.**Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the

Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company which revised Technical Specifications for operation of the Point Beach Nuclear Plant Unit No. 2, located in the Town of Two Creeks, Manitowac County, Wisconsin.

The amendment modifies the Technical Specifications to allow, for February 1976, a one-time extension of the monthly functional test interval for the turbine stop and governor valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 13, 1976, (2) Amendment No. 19 to License No. 27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Document Department, University of Wisconsin-Stevens Point Library, Stevens Point, Wisconsin 54481.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of February, 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of
Operating Reactors.

[FR Doc.76-6230 Filed 3-3-76; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SEISMIC ACTIVITY SUBCOMMITTEE**Notice of Meeting**

In accordance with the purposes of Section 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Seismic Activity Subcommittee will hold a two-day meeting on March 22-23, 1976 at the Sheraton Inn/Los Angeles Airport, 9750 Airport Boulevard, Los Angeles, California, to discuss the ability to define seismic activity east of the Rockies.

The agenda for the subject meeting shall be as follows:

MONDAY, MARCH 22, 1976, 8:30 A.M.-
9:45 P.M.

The two-day meeting will include presentations by invited speakers. Topics will include determination of seismic design basis for nuclear reactors in the eastern U.S.: current practice and problems, recent seismotectonic studies of the eastern U.S., seismological, geological and geophysical studies of the Charleston, South Carolina region, and seismicity of the southeastern and northeastern U.S.

TUESDAY, MARCH 23, 1976, 8:30 A.M. UNTIL
CONCLUSION OF BUSINESS

Some of the topics to be included are seismicity of the Mississippi embayment, geological and geophysical studies of the Mississippi embayment, earthquake risk studies in the eastern U.S., statistical evaluation of earthquake design for nuclear siting, current NRC reactor siting research, and USGS reactor hazards research program.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 15, 1976 to Mr. T. G. McCreless, ACRS, NRC, Washington, DC will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC, 20555.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 19, 1976 to the Office of the Executive Director of the Committee

(telephone 202/634-1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

A copy of the transcript of the meeting will be available for inspection on or after March 30, 1976 at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555 after June 22, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: March 2, 1976.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.76-6454 Filed 3-3-76;9:26 am]

[Docket No. 50-201]

NUCLEAR FUEL SERVICES, INC.

Negative Declaration Regarding Proposed Changes to the Technical Specifications of Provisional Operating License No. CSF-1

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an Amendment to Provisional Operating License No. CSF-1 issued to Nuclear Fuel Services, Inc., and the New York State Atomic and Space Development Authority, for operation of the West Valley Reprocessing Plant located in the Western New York Nuclear Service Center in the town of Ashford, near Riceville, Cattaraugus County, New York, about thirty miles from Buffalo.

The amendment would revise the provisions in Technical Specification 4.3 relating to canister loading and spacing in accordance with the licensee's application for amendment dated August 4, 1975. The proposed amendment would establish new limits governing spent fuel distribution and thereby allow greater spent fuel storage capacity in the Storage Pool located at the West Valley Plant.

The Commission has prepared an environmental impact appraisal for the proposed change and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action.

The environmental impact appraisal (identified as NR-FM-004) is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Memorial Library of Little Valley, Main Street, Little Valley, New York, and at the Town of Concord Public Library, 23 North Buffalo Street, Springville, New

York. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Bethesda, Maryland, this 1st day of March, 1976.

For the Nuclear Regulatory Commission,

RICHARD B. CHITWOOD,
Chief, Facility Environmental
Assessment Branch, Division
of Fuel Cycle and Material
Safety.

[FR Doc.76-6455 Filed 3-3-76;9:26 am]

[Docket Nos. 50-448 and 50-449]

POTOMAC ELECTRIC POWER CO.

Notice of Availability of Final Environmental Statement for Douglas Point Nuclear Generating Station Units, 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of Douglas Point Nuclear Generating Station, Units 1 and 2, by the Potomac Electric Power Company in Charles County, Maryland, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Charles County Library, Garrett & Charles Streets, LaPlata, Maryland 20646. The Final Environmental Statement is also being made available at the Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201; the Metropolitan Washington Council of Government, 1225 Connecticut Avenue, NW, Washington, D.C. 20036; and Council on the Environment, Commonwealth of Virginia, P.O. Box 790, Richmond, Virginia 23606.

The notice of availability of the Draft Environmental Statement for the Douglas Point Station, Units 1 and 2, and request for comments from interested persons was published in the FEDERAL REGISTER on May 28, 1974 (39 FR 18499). The comments received from Federal, State, and local agencies and interested members of the public have been included as an appendix to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. Nureg-0037) may be purchased at current rates (Printed Copy \$9.25; microfiche \$2.25) from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Rockville, Maryland this 1st day of March 1976.

For the Nuclear Regulatory Commission,

GEORGE W. KNIGHTON,
Chief, Environmental Projects
Branch No. 1, Division of Site
Safety and Environmental
Analysis.

[FR Doc.76-6456; Filed 3-3-76;9:26 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 24, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

REVISIONS

VETERANS ADMINISTRATION

School Attendance Report (Children of Veterans) 26-1816, on occasion, veterans and lenders, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Claim for Reimbursement and Worksheet—Summer Food Service Program for Children, FNS143, monthly, nonprofit private service institutions, Human Resources Division, Lowry, R. L., 395-3522.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis:
Confidential Quarterly Report; Transactions of U.S. Branches or Agencies of Foreign Banking Firms with Home Offices, BE-606B, quarterly, U.S. branches of foreign multinationals, Hulett, D. T., 395-4730.

Transactions of U.S. Businesses with Foreign Holders of 25% of Reporters Voting Securities, BE-605, quarterly, U.S. subsidiaries of foreign multinationals, Hulett, D. T., 395-4730.

Transactions of U.S. Branches or Other Unincorporated U.S. Business with Foreign Home Office, BE 606, quarterly, U.S. branches of foreign multinationals, Hulett, D. T., 395-4730.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration: Request for Approval to Sell Property (by REA Electric Borrowers), REA 369, on occasion, REA electric borrowers, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census: Census Employment Inquiry, BC170-A, on occasion, applicants for special censuses, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-6398 Filed 3-3-76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 25, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health:

Twin Health Questionnaire, single-time, male twin veterans, Richard Eisinger, 395-6140.

Study of Demographic Factors in Epilepsy, OS-NIH-ND-9, single-time, persons treated at hospital in Olmsted City, Richard Eisinger, 395-6140.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health: Search Report (Toxicology Information), NIH 1869, on occasion, specialist and scientists in Government, Marsha Traynham, 395-4529.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration: Aviation Safety Report, FAA 8020-12, on occasion, users of the airspace system, Harry B. Sheftel, 395-5870.

EXTENSIONS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Survey of Uranium Fuel Supply, annually, uranium producers, reactor manufacturers, Hulett, D. T., 395-4730.

DEPARTMENT OF DEFENSE

Department of the Army (Excluding Defense Civil Preparedness Agency), Application and Agreement for Establishment of a Junior Reserve Officers Training Corps Unit, DA3126, on occasion, secondary educational institutions, Marsha Traynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health: Research Fellowship Application, PHS 416-L, -2 thru 16, on occasion, post doctoral fellowship applicants, Lowry, R. L., 395-3772.

Office of Education: Financial Status Report and Performance Report Educational Opportunity Centers, OE 366, quarterly, IHE's and agencies, Marsha Traynham, 395-4529.

DEPARTMENT OF LABOR

Employment and Training Administration: CETA—Operating Plans, Quarterly Progress Reports and Client Characteristics, MA 2-202, MA 2-203, MA 5-134, MA 5-136, on occasion, State and Local agencies, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-6399 Filed 3-3-76; 8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 27, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

FEDERAL RESERVE SYSTEM

Survey of Concentrations in Securities Holdings, single-time, banks, Hulett, D. T., 395-4730.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

American Library Association Evaluation, single-time, librarians, heads of community organizations, Lowry, R. L., 395-3772.

ACTION

Vista Applicant Citizenship Status Form, A-777V, on occasion, vista applicants, Lowry, R. L., 395-3772.

Peace Corps Applicant Citizenship Status, A-777P, on occasion, Peace Corps applicants, Lowry, R. L., 395-3772.

Peace Corps Applicant Legal History and Status Questionnaire, A-776P, on occasion, Peace Corps applicants, Lowry, R. L., 395-3772.

Peace Corps Applicant Questionnaire Regarding Dependents, A-775, on occasion, Peace Corps applicants, Lowry, R. L., 395-3772.

Vista Applicant Marital Status Questionnaire, A-773V, on occasion, Vista applicants, Lowry, R. L., 395-3772.

Peace Corps Applicant Questionnaire on Intelligence Background, A-774, on occasion, Peace Corps applicants, Lowry, R. L., 395-3772.

Privacy Act Notice, A-771, on occasion, applicants, Lowry, R. L., 395-3772.

Action Applicant—Military Status Form, A-772, on occasion, applicants, Lowry, R. L., 395-3772.

Peace Corps Applicant—Marital Status Questionnaire, A-773P, on occasion, applicants, Lowry, R. L., 395-3772

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service: Livestock Movement—Animal Disease Investigation, VS-12-23, on occasion, farmers, Lowry, R. L., 395-3772.

Premises Inspection—Animal Disease Investigation, VS-12-21, on occasion, farmers, Lowry, R. L., 395-3772.

Foreign Agricultural Service: Oilseeds and Products Program Evaluation Questionnaire, single-time, recipients of foreign agricultural service information, natural resources division, C. Louis Kincannon, 395-6827.

Animal and Plant Health Inspection Service Diagnostic Investigation—Animal Disease, VS-12-24, on occasion, farmers, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Departmental and Other:

Reliability Program Requirements for Space and Missile Systems, on occasion, defense aerospace contractors, Harry B. Sheftel, and Lowry, R. L., 395-5870.

Systems Security Engineering, other (see SF-83), defense aerospace contractors, Harry B. Sheftel, and Lowry, R. L., 395-5870.

Mass Properties Control Requirements for Missile and Space Vehicles, other (see SF-83), defense aerospace contractors, Harry B. Sheftel, and Lowry, R. L., 395-5870.

Engineering Management, on occasion, defense aerospace contractors, Harry B. Sheftel, and Lowry, R. L., 395-5870.

Configuration Management Practices for Systems, Equipment, Munitions and Computer Programs, other (see SF-83), defense aerospace contractors, Harry B. Sheftel, and Lowry, R. L., 395-5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

ESEA Title II Financial Status Report, FY 1975, 1976, OE1297, annually, SEAS, Departments of Education of outlying areas, Lowry, R. L., 395-3772.

Health Services Administration: The Consequences of Reproduction: A Utility Model of Reproductive Behavior, OSNIH-CH-5, annually, women under 30 and their husbands, Richard Eisinger, 395-6140.

Social Security Administration: Schedule I—Base and Budget Data, SSA-3242, annually, commercial health insurance companies, Caywood, D. P., 395-3443.

Subcontract Schedule, SSA-3243, annually, commercial health insurance companies, Caywood, D. P., 395-3443.

Schedule of Net Hours Available, SSA-3258, annually, commercial health insurance companies, Caywood, D. P., 395-3443.

Facilities and Occupancy Schedule, SSA-3259, annually, commercial health insurance companies, Caywood, D. P., 395-3443.

Office of Education: Instructional Materials for Metric Education, OE-486-1, -2, -3, -4, single-time, teachers and students, Kathy Wallman, 395-6140.

Module Assessment—Home Economics, OE-487, single-time, teachers, Kathy Wallman, 395-6140.

Public Health Service: Reporting Requirements for Monitoring and Auditing Sterilizations, quarterly, ambulatory health care organizations, Caywood, D. P., 395-3443.

National Center for Education Statistics,
Fast Response Survey System, NCES 2379,
on occasion, educational organizations,
Kathy Wallman, 395-6140.

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

Policy Development and Research, Survey
of Tenants and Homeowners Questionnaire,
single-time, hispanic households in
SMSA's, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF LABOR

Employment and Training Administration,
Job Corps Contract Center Operations Re-
port, ETA-6-143, quarterly, contractor op-
erated job corps centers, Lowry, R. L.,
395-3772.

DEPARTMENT OF TRANSPORTATION

Departmental and Other, Transportation
Air Pollution Model and Data Question-
naire, single-time, groups in air pollution
fields, Lowry, R. L., 395-3772.

NEW FORMS

Federal Highway Administration: Pros-
pectus for Research Study to Develop
Highway Noise Criteria, single-time,
households in Washington, D.C., Lowry,
R. L., 395-3772.

REVISIONS

VETERANS ADMINISTRATION

Request for Employment Report in Con-
nection with Review of Claim for Disability
Insurance Benefits, FL 29-30, on occasion,
insured veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Administrative
Review Report (Schools, Charitable Insti-
tutions, Nutrition Programs for the
Elderly)—Food Distribution Programs,
FNS 168, on occasion, hospitals, schools,
Human Resources Division, Lowry, R. L.,
395-3532.

DEPARTMENT OF HEALTH, EDUCATION AND
WELFARE

Office of Education: Financial Status Re-
port—NDEA Title III-A FY '73 and '74,
OE-1298, annually, SEAS, Departments of
Education of outlying areas, Lowry, R. L.,
395-3772.

Social Security Administration: Plan of
Expenditures—Hospital Insurance Bene-
fits Program, SSA-2582, semi-annually,
commercial health insurance companies,
Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE

Office of Education:
Performance Report—ESEA Title II, OE-
1297-1, annually, SEA's, Departments of
Education, Marsha Traynham, 395-4529.
Performance Report—ESEA Title II, OE-
1298-1, annually, SEA's, Departments of
Education, Marsha Traynham, 395-4529.
Application for Veterans' Cost-of-Instruc-
tion Payments to Institutions of Higher
Education, OE 269, annually, IHE's,
Marsha Traynham, 395-4529.

DEPARTMENT OF THE INTERIOR

Geological Survey Pollution Report, 9-1880,
on occasion, oil and gas producing com-
panies, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-6400 Filed 3-3-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY REVIEW GROUP

Termination of Section 301 Review

Pursuant to Part 2006.4 of the Regula-
tions of the Office of the Special Repre-
sentative for Trade Negotiations, as
amended, the Trade Policy Review Group
hereby terminates its review of a peti-
tion alleging unfair trade practices by
Canada against U.S. commerce in com-
mercial eggs under section 301 of the
Trade Act of 1974 (Docket No. 301-2).

On July 17, 1975 the United Egg
Producers, and on July 21, 1975 the
American Farm Bureau Federation, filed
petitions alleging unfair trade practices
burdening U.S. commerce in commercial
eggs. The practice complained of was the
imposition by Canada of an import quota
on eggs produced in the United States.
The petitions requested relief under sec-
tion 301 of the Trade Act of 1974.

Pursuant to section 301 of the Trade
Act, the Office of the Special Repre-
sentative for Trade Negotiations, through
the Trade Policy Review Group and the
Section 301 Committee, conducted an ex-
tensive review of the allegations in the
petitions. Following presentation of
views by interested parties, the United
States Government sought and obtained
an advisory opinion from a Working
Party of the General Agreement on Tar-
iffs and Trade (GATT) regarding the
GATT aspects of the Canadian action.
This action was taken in parallel with
extension bilateral consultations with
representatives of the Canadian Govern-
ment seeking removal of the restrictive
effect of the quota on U.S. exports of eggs
to Canada.

As a result of these actions, the Gov-
ernment of Canada has agreed to pro-
vide a quota for imports from the United
States of 100,000 cases of shell eggs,
approximately double the level originally
imposed. The Government of Canada has
also agreed to deal with problems which
might arise in the future involving Can-
adian exports of shell eggs to the United
States and other markets. On the basis
of this agreement, the Trade Policy Re-
view Group has concluded that action
is no longer required under section 301
of the Trade Act of 1974 and that the
purposes of that Act have been fulfilled
through a bilateral resolution of the dis-
pute.

Therefore, pursuant to regulations
governing procedures for complaints
pursuant to Section 301 of the Trade Act
of 1974, the Trade Policy Review Group
hereby terminates the review of Petition
No. Section 301-2.

CLAYTON K. YEUTTER,
Deputy Special Representative
for Trade Negotiations Chair-
man, Trade Policy Committee
Review Group.

[FR Doc.76-6358 Filed 3-3-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3779]

MARATHON SECURITIES CORP.

Filing of Application for Order Granting Exemptions

Notice is hereby given that Marathon
Securities Corporation ("Applicant"), 20
Exchange Place, New York, New York
10005, a closed-end investment company
registered under the Investment Com-
pany Act of 1940 ("Act"), filed an appli-
cation on March 12, 1975, and an amend-
ment thereto on February 23, 1976 pur-
suant to section 6(c) of the Act for an
order exempting Applicant from certain
provisions of section 10(a); section 16
(a); Rules 17g-1(d), 17g-1(e) and 17g-
1(g); sections 30(a), 30(b), 30(c), 30(d)
and 30(e) and Rules 30a-1, 30a-2, 30b1-
1, 30b2-1 and 30d-1 thereunder; and sec-
tion 32(a), to reduce Applicant's ex-
penses incurred in connection with its
ongoing liquidation and dissolution as a
registered investment company. All in-
terested persons are referred to the ap-
plication on file with the Commission for
a statement of the representations con-
tained therein, which are summarized
below.

Applicant, a Delaware corporation, has
been registered under the Act since 1965.
In October 1974, Applicant's share-
holders approved a plan for liquidating
and dissolving Applicant and terminat-
ing Applicant's status as a registered in-
vestment company. In December 1974,
Applicant distributed on a pro-rata basis
all of its unrestricted securities, except
one, which it has since sold. The dis-
tribution amounted to over two-thirds
of Applicant's assets. Applicant states
that it is liquidating is holding in its
one publicly traded but restricted port-
folio security pursuant to Rule 144 under
the Securities Act of 1933; but it esti-
mates that it will take at least two years
to complete such process. Applicant re-
presents that it has been attempting to
dispose of its remaining restricted securi-
ties, but, due to general economic con-
ditions and the business situations of the
particular corporations, has been un-
successful thus far. Therefore, Applicant
has been unable to make a final distribu-
tion of its assets and file an application
pursuant to section 8(f) of the Act to
deregister as an investment company. In
addition to such securities, Applicant
presently holds approximately \$145,000
in liquid assets which it intends to use
to meet its known obligations and its
continuing expenses, and to establish a
reserve for unknown liabilities at the
time of its final liquidation. Applicant
states that it intends to make its final
distribution as soon as it determines that
the expenses of continuing its corporate
existence would exceed the amounts
which might reasonably be expected to
accrue from the sale of its then remain-
ing restricted securities. Since Applicant
believes that it may be several years be-
fore it will be able to dispose of its

restricted securities, distribute the proceeds and dissolve completely, Applicant is seeking certain exemptions in order to reduce significantly its expenses during the period when its activities will be severely limited.

Section 10(a) and Rules 17g-1(d), (e) and (g). Section 10(a), in substance, provides that no more than 60% of an investment company's board of directors can be interested persons of the investment company. Applicant proposes to have two interested persons as its only directors, Mr. Walter Scheuer ("Scheuer"), Chairman of the Board of Applicant, and Mr. Edwin Robbins ("Robbins"), President, Treasurer and Chief Executive Officer of Applicant. In addition to savings on directors' fees, Applicant represents that additional savings will result because Applicant need no longer prepare memoranda for its unaffiliated directors describing Applicant's operations and the status of its portfolio companies. Scheuer and Robbins, who are involved on a daily basis with Applicant's activities and are completely familiar with its portfolio companies, will not need such reports. Moreover, because Scheuer and Robbins own in the aggregate directly or indirectly approximately 67.2 percent of Applicant's outstanding securities, Applicant asserts that they will act in the best interests of all of Applicant's shareholders in carrying out the liquidation and dissolution.

Rules 17g-1(d), (e) and (g) govern the bonding of officers and employees of investment companies. Several of the provisions of these rules require that certain actions be taken by a majority of the board of directors of an investment company who are not "interested persons" of the investment company. Applicant intends to continue to comply with all the substantive requirements of such rules, but if it receives the exemption from section 10(a) described above and makes the proposed changes in its board of directors, there will no longer be directors who are not "interested persons" of Applicant and Applicant will no longer be able to follow the procedures in such rules. Therefore, Applicant is seeking relief from those provisions of the rules which require approval by directors who are not interested persons of Applicant. However Applicant has agreed that it will not reduce the amount of its bond, even if permitted to by Rule 17g-1(d), without the approval of both of its directors.

Section 16(a). Section 16(a) of the Act provides, in part, that:

No person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company, at an annual or a special meeting duly called for that purpose; except that vacancies occurring between such meetings may be filled in any otherwise legal manner if immediately after filling any such vacancy at least two-thirds of the directors then holding office shall have been elected to such office by the holders of the outstanding voting securities of the company at such an annual or special meeting. In the event that at any time less than a major-

ity of the directors of such company holding office at that time were so elected by the holders of the outstanding voting securities, the board of directors or proper officer of such company shall forthwith cause to be held as promptly as possible and in any event within sixty days a meeting of such holders for the purpose of electing directors to fill any existing vacancies in the board of directors unless the Commission shall be order extend such period * * *.

As noted above, Applicant intends to have Scheuer and Robbins as its directors for the balance of its existence as a registered investment company. If one vacancy occurs, the remaining director intends to fill it from the group of individuals who are currently serving as Applicant's directors. If both directorships become vacant, applicable Delaware law would be used. Applicant represents that these arrangements will relieve it of certain expenses, including those incidental to shareholder meetings, in the event that vacancies occur.

Sections 30(a), 30(b), 30(c), 30(d), 30(e), and 32(a) and Rules 30a-1, 30a-2, 30b1-1, 30b2-1, and 30d-1. Section 30 and the rules thereunder require registered investment companies to file with the Commission and distribute to their shareholders various quarterly, semi-annual and annual reports. Rule 30d-1 requires that shareholders receive a report at least semi-annually which includes a balance sheet, a list of the securities owned, an income statement, statements of surplus and aggregate remuneration paid to certain officers and directors of the investment company, and a statement of its aggregate purchases and sales of investment securities. Certain of these reports must be accompanied by a certificate of an independent public accountant.

Applicant represents that it would realize significant savings in the form of reduced accounting and auditing fees, legal fees, officers' and employees' salaries, and printing and mailing costs if the requested relief is granted. However, if relief is granted, Applicant has agreed to send to its shareholders and file with the Commission within forty-five days after the end of each six month period beginning August 1, 1975 a report which will include an unaudited balance sheet and income statement for the period covered, a list of Applicant's portfolio securities and a brief discussion of any significant events which occurred during the period. Applicant has also agreed that at least once during each calendar year beginning with 1976 an independent public accountant will conduct an examination of Applicant's assets without prior notice to Applicant. Applicant will file with the Commission a certificate of the accountant stating the results of such examination.

Section 32(a) provides that unless certain conditions have been met concerning the selection by a registered management company of its independent public accountant, it is unlawful for such company to file with the Commission any financial statement signed or certified by an independent public accountant. Assuming Applicant receives the requested

relief from section 30 and the rules thereunder, Applicant will no longer file with the Commission financial statements signed or certified by an independent public accountant. Therefore, section 32(a) will not be applicable to Applicant. However, Applicant believes that it is possible that at some future time, it may be in a position to file a signed or certified financial statement with the Commission and consequently is seeking an exemption from section 32(a) to permit it to do so.

Section 6(c) provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 22, 1976 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-6212 Filed 3-3-76; 8:45 am]

[File No. SR-MSE-76-1]

MIDWEST STOCK EXCHANGE, INC.

Order Extending Time Period for Consideration of Proposed Rule Change

On January 7, 1976 the Midwest stock Exchange, Inc. ("MSE") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securi-

ties Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to convert its "MAX" program from a pilot program to a permanent program. MAX is an execution formula for orders from 100 to 199 shares available in those issues which are offered for participation by MSE specialists.

Notice of the proposed rule change, together with the terms of substance, was given by publication of a Commission Release (Securities Exchange Act Release No. 12015 (January 13, 1976)) in the FEDERAL REGISTER (41 FR 2876 (January 22, 1976)).

The MSE proposal raises questions, unresolved at this time, of the functions which the MSE specialist (and other exchanges' specialists performing under similar "automatic" execution formulas) will perform with respect to orders which are held for execution pursuant to the MAX formula. In particular, it is necessary to clarify (1) what, if any, brokerage functions MSE specialists will perform with respect to MAX orders where other orders represented on the MSE floor would enable a MAX order to obtain an execution which would be as good or better than that available through the MAX execution formula; and (2) the basis for the proposed prohibition against floor brokers interrogating specialists as to the current nature of their quotations prior to entering a MAX order.

The Commission finds that, in light of the questions with respect to MAX which require clarification, the MSE proposal requires further consideration.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act, hereby extends to 90 days from January 22, 1976 the time period within which the Commission shall approve the above referenced proposed rule change of the MSE or institute proceedings to determine whether it should be disapproved.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-6215 Filed 3-3-76; 8:45 am]

[70-5808]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Amendment of Preemptive Rights Provisions of Corporate Charter; and of Solicitation of Proxies in Connection Therewith

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7(e) and 12(e) thereof and Rules 62 and 65 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, summarized below, for a complete statement of the proposed transaction.

Under Article Thirty-one of NEES' Agreement and Declaration of Trust ("Charter"), the company's common shareholders have the preemptive right to subscribe pro rata to any authorized and unissued shares of common stock which the company issues for cash except in cases where such shares are issued through a public offering by competitive bidding or through underwriters or investment bankers for public sale. NEES now proposes to amend Article Thirty-one to modify the preemptive rights of shareholders so that, unless the Board of Directors otherwise prescribes, such rights also shall not exist when shares of common stock are issued pursuant to (1) certain programs open to all shareholders, namely, dividend reinvestment and/or limited investment programs, or (2) programs for share ownership by employees of NEES and its direct or indirect subsidiaries.

Under the present dividend reinvestment program and limited investment option ("existing plans"), NEES' shareholders can regularly invest their dividends and/or up to \$1,000 per month to acquire additional shares of common stock, purchased for their accounts in the open market. NEES is currently studying the feasibility of replacing these plans with similar plans under which NEES would issue and sell additional shares of its authorized common stock directly to the participating shareholders, who would thus be relieved of the brokerage charges necessarily incurred under the existing plans. NEES anticipates that the plans under study would also permit the proceeds from the purchases of additional common stock by participating shareholders to flow directly to NEES, rather than into the open market as under the existing plans, thereby providing it with additional funds for investment in its operating subsidiaries.

It is stated that the proposed Charter amendment would permit the development of the programs currently under study.

It is further stated that NEES presently has no share ownership program for employees and that the proposed Charter amendment would permit the development of such a program. NEES anticipates that an employee share ownership program would provide employees with an additional investment opportunity and would provide NEES with additional funds.

NEES seeks authorization solely to amend its Charter, in the manner set forth above, and to solicit proxies in connection therewith. The implementation of any dividend reinvestment plans or employee stock ownership plans and any issue or sale of common stock pursuant thereto will be the subject of additional filings with this Commission.

NEES intends to submit the proposed Charter amendment to its stockholders for consideration and vote at their Annual Meeting, scheduled for April 27, 1976. Approval of the proposed amendment requires the affirmative vote of

two-thirds of the Board of Directors and either (i) the affirmative vote of a majority of the common shares outstanding, if the Board of Directors determines that the proposed amendment is of a fundamental character, or (ii) the affirmative vote of a majority of the common shares represented at the meeting, if the Board determines that the proposed amendment is not of a fundamental character. It is stated that the determination of whether the proposed Charter amendment is fundamental will occur at the Board meeting to be held on February 25, 1976. NEES further intends to solicit proxies from its common shareholders through the use of proposed soliciting material, which NEES anticipates mailing to such shareholders on or about March 26, 1976, for the purposes of obtaining the requisite approval of the proposed Charter amendment and a proposed fixing the remuneration of Directors, and fixing the number of, and electing, Directors.

It is stated that the fees and expenses to be incurred by NEES in connection with the proposed transaction will not exceed by any significant amount those which will be incurred in connection with the Annual Meeting of NEES' shareholders; the estimated expenses to be incurred by NEES as a result of soliciting proxies for the Annual Meeting, including service charges of New England Power Service Company (an affiliate of NEES) of \$4,000, are estimated to be about \$85,000. It is also stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 22, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the

hearing (if ordered) and any postpone-ments thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-6213 Filed 3-3-76; 8:45 am]

[Release No. 34-12139; File No. SR-PBWSE
76-4]

PBW STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 24, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The PBW Stock Exchange, Inc., (PBW), proposes to readopt the name, Philadelphia Stock Exchange, Inc. For this purpose, Article First of the Certificate of Incorporation will be amended as follows [brackets indicate deletions; italic indicates new material]:

FIRST: The name of this Corporation is [PBW Stock Exchange, Inc.] *Philadelphia Stock Exchange, Inc.*

NOTE.—In conformity with the foregoing, the name, *Philadelphia Stock Exchange, Inc.*, will be substituted for [PBW Stock Exchange, Inc.], wherever the latter name appears in titles, tables of contents, texts, explanatory notes and supplementary material contained in the Certificate of Incorporation, the By-Laws and the Rules of the Board of Governors, except that Article Sixth of the Certificate of Incorporation will continue to show the name of the original incorporator as PBW Stock Exchange, Inc. To the best of Proposer's knowledge, the specific name of the Exchange does not appear in the main text of the Certificate of Incorporation, the By-Laws, or the Rules except at the places above noted.

STATEMENT OF BASIS AND PURPOSE

The origins of the Exchange go back to 1754 in colonial Philadelphia and much of its history lies in this city whose name it has carried in one form or another through the years. Name changes in the modern era have reflected the contributions to its growth and development of former stock exchanges in Baltimore and Washington while, more recently, the former Pittsburgh Stock Exchange was included in the mergers occurring some years ago. Although the acronym, PBW, has been used for four years, the Board believes the name should be more specific, yet easy to use. The Exchange has become a country-wide organization and is known as one of several national securities exchanges whose names reflect the cities or regions of their origins. The Board has chosen to readopt the name, Philadelphia Stock Exchange, Inc., as representative of the Exchange's history, development and identity.

It should be noted that the acronym or letters of abbreviation the Exchange would use in the future would be chosen to avoid confusion with any other exchange. For example, PHSE could be used to avoid confusion with Pacific Stock Exchange's PSE.

The proposed adoption of a corporate name is submitted as information necessary or appropriate in the public interest in connection with registration as a national securities exchange under section 6(a) of the Exchange Act.

No comments have been received or solicited Members have been given notice of the amendments in accordance with amendment procedures under the By-Laws.

On or before April 8, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 5, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 25, 1976.

[FR Doc. 76-6216 Filed 3-3-76; 8:45 am]

[70-5797]

SOUTHERN CO.

Proposal by Holding Company To Issue Intermediate Term Debt and To Make Capital Contributions to Subsidiary Operating Companies; Request for Exception From Competitive Bidding

Notice is hereby given that The Southern Company ("Southern"), Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, has filed an application-declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12 of the Act and Rules 24(c)(1), 45 and 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All in-

terested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to issue and sell \$125,000,000 of its unsecured promissory notes ("Notes") to a group of nineteen insurance companies, pension funds and other institutional lenders ("Institutions"). The Notes will be placed with the Institutions through private negotiations undertaken by Morgan Stanley & Co., as agent for Southern. Southern proposes to deliver up to \$25,000,000 of the Notes to certain of the Institutions up to 90 days after the issuance thereof. The Notes will be sold at a price equal to 100 percent of the principal amount thereof, will bear interest at the rate of 11½ percent per annum payable semi-annually, and will mature March 15, 1982. There will be mandatory sinking fund payments of \$41,000,000 and \$42,000,000 on the fourth and fifth anniversary dates, respectively, and a final payment of \$42,000,000 at maturity. In addition, Southern, at its option, may redeem the Notes at a declining premium in whole or in part at any time with the proceeds from the sale of its common stock.

The loan agreement under which the Notes will be issued requires Southern (i) not to create, incur, assume or guarantee any additional long-term debt (as defined) unless, immediately after giving effect thereto, such long-term debt would not exceed 20% of Southern's corporate capitalization; (ii) to maintain ownership of all shares of common stock of its public utility subsidiaries and not to dispose of any shares of common stock of any other of its subsidiaries, subject to certain exceptions; (iii) not to create or assume any mortgage, pledge or lien upon any stock or indebtedness of any of its subsidiaries without securing the Notes equally and ratably; and (iv) to limit cash dividends to \$155,000,000 from retained earnings plus net income subsequent to the date of the issuance of the Notes.

Southern has filed an application with this Commission (HCAR No. 19388, February 13, 1976) proposing to sell 10,000,000 shares of common stock which is expected to provide at least \$150,000,000. The proceeds from the sale of the common stock, together with the proceeds from the Notes, will aggregate \$275,000,000 and will be used by Southern to make capital contributions of approximately \$225,000,000 to its operating subsidiaries and pay approximately \$60,000,000 of Southern's short-term indebtedness.

Southern has requested authorization to make capital contributions to its operating subsidiaries through March 31, 1977, as follows:

Subsidiary:	Contribution
Alabama Power Company	\$150,000,000
Georgia Power Company	50,000,000
Gulf Power Company	14,000,000
Mississippi Power Company	10,000,000
	\$224,000,000

Southern also proposes to make additional capital contributions of up to \$20,-

000,000 should the proceeds from its proposed sale of common stock exceed \$150,000,000 ratably as follows: up to \$150,000,000 to Alabama, up to \$3,000,000 to Gulf, and up to \$2,000,000 to Mississippi.

Alabama, Mississippi, and Gulf filed an application with the Commission to issue and sell up to \$425,000,000, \$68,000,000, and \$65,000,000, of short-term debt through March 31, 1977, respectively (HCAR No. 19381, February 10, 1976). The capital contributions to be made by Southern to these subsidiaries from the sale of common stock and Notes will be applied to reduce their respective short-term debt levels and to improve their equity positions.

Southern states that in order to finance its proposed contributions for 1976 and fund its currently outstanding short-term debt without the sale of the Notes, it would have to sell, probably in the fourth quarter of this year, another issue of common stock equal to the pending common stock sale, which represents an increase of approximately 10 percent of Southern's outstanding common stock. Southern states that a second issue of common stock in 1976 would not be economical and would be of doubtful feasibility. Southern believes that sale of the Notes will permit it to defer a further sale of common stock until the latter part of 1977.

Southern believes that the annual interest rate on the Notes is reasonable in the light of current market conditions and in the light of market conditions during the period during December, 1975 and early January, 1976, when the prospective purchasers indicated their willingness to purchase the Notes. The Notes are not rated. However, Southern assumes that the highest rating which could be expected for the Notes, were they to be rated, would be ba and BB+. The Notes are junior in position to the preferred stock of Southern's operating subsidiaries.

Southern requests an exception from the competitive bidding requirements of Rule 50(a)(5) to offer the Notes. A statement of the fees and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 22, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in

case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the amended application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-6214 Filed 3-3-76; 8:45 am]

SMALL BUSINESS ADMINISTRATION

AUGUSTA DISTRICT ADVISORY COUNCIL

Public Meeting

The Augusta District Advisory Council will hold a public meeting at 2:00 p.m., Monday, March 29, 1976, at the Holiday Inn, Augusta, Maine, to discuss such business as may be presented by members, staff of the Small Business Administration and others present.

For further information write or call Russell R. Berry, Acting District Director, Federal Building and U.S. Post Office, 40 Western Avenue, Augusta, Maine 04330, (207) 833-6225.

Dated: February 26, 1976.

MARY LOU GRIER,
Deputy Advocate
for Advisory Councils.

[FR Doc.76-6176 Filed 3-3-76; 8:45 am]

COLUMBIA DISTRICT ADVISORY COUNCIL

Public Meeting

The Columbia District Advisory Council will hold a public meeting at 10:00 a.m., Monday, May 3, 1976, at The Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such business as may be presented by members, staff of the Small Business Administration and others present.

For further information write or call Vern F. Amick, 1801 Assembly Street, Columbia, South Carolina 29201 (803) 677-5373.

Dated: February 26, 1976.

MARY LOU GRIER,
Deputy Advocate
for Advisory Councils.

[FR Doc.76-6177 Filed 3-3-76; 8:45 am]

KANSAS CITY DISTRICT ADVISORY COUNCIL

Public Meeting

The Kansas City District Advisory Council will hold a public meeting at 10:00 a.m., Wednesday, March 24, 1976,

at 12 Grand Building—5th Floor 1150 Grand Avenue, Kansas City, Missouri 64106, to discuss such business as may be presented by members, staff of the Small Business Administration and others present.

For further information write or call Gerald D. Jepson at the above address (816) 758-5557.

Dated: February 27, 1976.

MARY LOU GRIER,
Deputy Advocate
for Advisory Councils.

[FR Doc.76-6173 Filed 3-3-76; 8:45 am]

LUBBOCK DISTRICT ADVISORY COUNCIL

Public Meeting

The Lubbock District Advisory Council will hold a public meeting at 9:00 a.m., Friday, April 9, 1976, at the Lubbock Christian College, 5601 W. 19th Street, Lubbock, Texas, to discuss such business as may be presented by members, staff of the Small Business Administration and others present.

For further information write or call Philip J. O'Jibway, 712 Federal Office Building & Courthouse, 1201 Texas Avenue, Lubbock, Texas 79401 (806) 762-7462.

Dated: February 26, 1976.

MARY LOU GRIER,
Deputy Advocate
for Advisory Councils.

[FR Doc.76-6179 Filed 3-3-76; 8:45 am]

SAN DIEGO DISTRICT ADVISORY COUNCIL

Public Meeting

The San Diego District Advisory Council will hold a public meeting at 4:00 p.m., Thursday, March 25, 1976, at 110 West C Street, Suite 705, San Diego, California 92101, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. For further information write or call F. D. Sergeant at the above address (714) 895-5430.

Dated: February 27, 1976.

MARY LOU GRIER,
Deputy Advocate for
Advisory Councils.

[FR Doc.76-6180 Filed 3-3-76; 8:45 am]

[Declaration of Disaster Loan Area #1211]

NEW YORK

Declaration of Disaster Area

Ulster County and adjacent counties within the State of New York constitute a disaster area because of damage resulting from flooding and ice jams caused by heavy rains January 27-29, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 26, 1976, and for economic injury until the close of business on November 26, 1976, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, New York 10007.

or other locally announced locations.

Dated: February 26, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-6181 Filed 3-3-76;8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[USRA Docket No. 76-23]

LEHIGH VALLEY RAILROAD CO.

Proposed Interim Abandonment

The Trustee in Bankruptcy of the Lehigh Valley Railroad Company proposes to abandon a portion of the Naples Branch, a line of railroad in Ontario County, N.Y., and have made a request to the United States Railway Association ("USRA") for the authorization required for that purpose under Section 304(h) of the Regional Rail Reorganization Act of 1974 ("the Act"), Pub. L. 93-236.

Section 304(h) provides:

"After [January 2, 1974] . . . no railroad in reorganization may discontinue service or abandon any line of a railroad other than in accordance with the provisions of [the Act], unless (1) it is authorized to do so by the Association, and (2) no affected State or local or regional transportation authority reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or decision or order of or the pendency of any proceeding before any Federal or State court, agency, or authority."

The portion of the Naples Branch sought to be abandoned extends from milepost 344.5 at Geneva to milepost 352.0 at Stanley, a distance of 7.5 miles in Ontario County, New York.

There are no stations on the line.

In support of its request, the Lehigh Valley asserts that:

1. The line has been out-of-service since February 27, 1973 on account of poor track conditions.
2. Rehabilitation of the line to FRA Class I standards would cost about \$500,000.
3. There are no plans to restore rail service over the line.
4. Alternate transportation is available from motor common carriers, and Penn Central and Lehigh Valley team tracks at Stanley and Geneva, N.Y., respectively.
5. The line does not handle any bridge traffic or passenger service.
6. There are no persons having a reversionary interest in the line.
7. Vandals are removing rails from the line.

The request is accompanied by exhibits providing more detailed information.

To assist USRA in its analysis and disposition of this request, all affected or interested parties are invited to submit written statements, views, arguments or comments either favoring or opposing the discontinuance proposal.

Any such submissions must identify, by its Docket No., the request to which it relates, and must be filed with the Docket Clerk, United States Railway Association,

Room 2222, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20595, by Apr. 20, 1976 to enable timely consideration by USRA. The docket containing the original application and all submissions received shall be available for public inspection at that address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the offices of the New York Department of Transportation, 1220 Washington Avenue, Albany, New York, between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Supervisor's Office, Lehigh Valley Railroad Yard Office, intersection of Routes 5 and 20, Geneva, N.Y., during normal business hours, at the general offices of the railroad, 425 Brighton Street, Bethlehem, Pa., between 8:30 a.m. and 5:00 p.m., Monday through Friday, and at the railroad's Legal Department, 466 Lexington Avenue, Room 1117, New York, N.Y., between 8:45 a.m. and 5:00 p.m., Monday through Friday. In addition to this publication, Lehigh Valley shall by March 5, 1976, furnish a copy of this notice and invitation for written submission, to known shippers on the portion of the Naples Branch sought to be abandoned, to each creditor holding an obligation secured by that property, and to each labor union whose members are employed on that part of its line. It shall also post and prominently display a copy of this notice at each station along the line, continually during the period from March 5, 1976 thru Apr. 20, 1976.

This action is taken pursuant to Section 304(h) of the Regional Rail Reorganization Act of 1973, P.L. 93-236.

Copies of this notice have been sent by USRA to the Governor of New York, the New York State Department of Transportation, the Public Service Commission of New York, the Ontario County Board of Supervisors, the Mayor of Geneva, the Seneca Supervisor, the Director of the Rail Services Planning Office, the Chairman of the Interstate Commerce Commission, the President of the National Rail Passenger Corporation, and also to newspapers and radio and television broadcasting stations servicing the area involved.

Publication of this notice does not mean that the Association has reached any conclusion as to merits of the application. The Association will consider the application in the light of the public comments received and the requirements and purposes of the Act before making a decision. The Association will deny any application which a State or local or regional transportation authority reasonably opposes, or where the authorization requested is inconsistent with the requirements and purposes of the Act; it will grant the application if that action is consistent with the requirements and purposes of the Act.

Dated at Washington, D.C. this 1st day of March, 1976.

JAMES A. HAGEN,
President,
United States Railway Association.

[FR Doc.76-6259 Filed 3-3-76;8:45 am]

UNITED STATES SINAI SUPPORT MISSION

[Delegation of Authority 3]

CONTROLLER, OFFICE OF FINANCIAL MANAGEMENT

Delegation of Authority Regarding Certification and Processing of Vouchers

Pursuant to the authority vested in me by Executive Order 11986, issued January 13, 1976, I hereby delegate the following functions and authorities to the Controller, Office of Financial Management, Bureau for Program and Management Services, of the Agency for International Development (A.I.D.):

Approve and authorize A.I.D. certifying officers to certify and process vouchers for payment against funds allocated for the United States Sinai Support Mission (SSM) operations in accordance with the Agreement between A.I.D. and SSM dated January 16, 1976.

The functions and authorities delegated herein may be redelegated.

This delegation of authority is effective immediately.

Dated: February 26, 1976.

C. WILLIAM KONTOS,
Director, United States
Sinai Support Mission.

[FR Doc.76-6218 Filed 3-3-76;8:45 am]

[Delegation of Authority 2]

DIRECTOR, OFFICE OF MANAGEMENT OPERATIONS

Delegation of Authority To Carry Out Management Support Functions

Pursuant to the authority vested in me by Executive Order 11986, issued January 13, 1976, I hereby delegate the following functions and authorities of the United States Sinai Support Mission (SSM) to the Director, Office of Management Operations, Bureau for Program and Management Services, of the Agency for International Development (A.I.D.):

1. Upon receipt of request from SSM, to procure and sign purchase contracts or leases for supplies, equipment and services including, but not limited to:
 - (a) Advertising, printing and binding;
 - (b) Office space and living quarters overseas (by lease only);
 - (c) Alterations and repairs to office space and living quarters overseas;
 - (d) Communications and telephone equipment, supplies or services;
 - (e) Office supplies and equipment;
 - (f) Motor vehicles, transportation services and motorized equipment in accordance with governing laws, regulations and procedures.

2. To take such other actions as are necessary to provide management support services to the SSM in accordance with the Agreement between A.I.D. and SSM dated January 16, 1976.

The functions and authorities delegated herein may be redelegated.

This delegation of authority is effective immediately.

Dated: February 26, 1976.

C. WILLIAMS KONTOS,
Director, United States
Sinai Support Mission.

[FR Doc.76-6217 Filed 3-3-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

MOTOR CARRIER APPLICATIONS AND OTHER PROCEEDINGS

[Notice No. 18]

FEBRUARY 27, 1976.

The following applications are governed by Special Rule 1100 247¹ of the Commission's general rules of practice (49 CFR, as amended), published in the *FEDERAL REGISTER* issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before April 5, 1976. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) (as amended, 49 FR 37215) published in the *FEDERAL REGISTER* issue of August 26, 1975, effective September 15, 1975, further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the *FEDERAL REGISTER* issue of May 3, 1966. This assignment will be by

Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 263 (Sub-No. 222), filed January 20, 1976. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemical and industrial plant waste materials and environmentally condemned liquid or solid waste products for disposal or burial purposes only, from points in Arizona, California, Colorado, Idaho, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming to the plantsite and storage facilities of West-Con, Inc., located at or near Grandview, Idaho.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Boise, Idaho.

No. MC 531 (Sub-No. 328), filed December 29, 1975. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid commodities, in bulk, in tank vehicles (except petroleum, petroleum products and liquid chemicals), from points of entry on the International Boundary line between the United States and the Republic of Mexico, located in Texas, New Mexico, Arizona, and California to points in the United States (except Alaska, California, Hawaii, and Texas).*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Houston, Tex.

No. MC 531 (Sub-No. 329), filed January 22, 1976. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid synthetic plastics, in bulk, in tank vehicles, from Columbus, Ohio, to Hayward, Calif.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 1977 (Sub-No. 25), filed January 21, 1976. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities (except household goods and commodities which because of size or weight require the use of special equipment), between Boise, Idaho, and Brigham City, Utah.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah, or Boise, Idaho.

No. MC 2900 (Sub-No. 283), filed January 21, 1976. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S.E. Somers, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Dana Corporation located at or near Churubusco, Ind., the plantsite of Garrett Tubular Products, Inc. located at or near Garrett, Ind., and the plantsite of Franklin Electric located at or near Bluffton, Ind., each serving as off route points in connection with the applicant's presently authorized regular routes.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind.; Pittsburgh, Pa.; or Washington, D.C.

No. MC 2900 (Sub-No. 284), filed January 21, 1976. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: S.E. Somers, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serv-*

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

ing Montevallo, Calera, and Columbiana, Ala. as off-route points in connection with applicant's presently authorized regular routes.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 7166 (Sub-No. 17), filed January 14, 1976. Applicant: WILSON TRANSPORTATION SERVICE, INC., P.O. Box 258, Ottawa, Ohio 45875. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Ohio on, and west and south of a line beginning at the Ohio-West Virginia State Boundary line and extending along U.S. Highway 33 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Indiana State Boundary line (except points in Jackson Township, Preble County, Ohio), on the one hand, and, on the other, points in and south of Muskegon, Newago, Mecosta, Clare, Gladwyn, Bay, Tuscola, and Huron Counties, Mich., and (2) between points in Ohio bounded by a line beginning at the Indiana-Ohio State Boundary line and extending along U.S. Highway 224 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Ohio Highway 31, thence along Ohio Highway 31 to junction Ohio Highway 38, thence along Ohio Highway 38 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-Indiana State Boundary line, thence along the Indiana-Ohio State Boundary line, to the point of beginning, on the one hand, and, on the other, points in Michigan which are in and south of the counties of Muskegon, Newago, Mecosta, Clare, Gladwyn, Bay, Tuscola, and Huron Counties, Mich., and which are on and east of a line beginning at the Ohio-Michigan State Boundary line and extending along Michigan Highway 52 to junction Interstate Highway 96, thence along Interstate Highway 96 to Lake Michigan; and

(3) Between points in Ohio on, south, and east of a line beginning at Lake Erie and extending along Interstate Highway 71 to junction U.S. Highway 224, thence along U.S. Highway 224 to U.S. Highway 68, thence along U.S. Highway 68 to the Ohio-Kentucky State Boundary line, on the one hand, and, on the other, points in Indiana in and east and north of Vermillion, Vigo, Sullivan, Greene, Daviess, Martin, Orange, Washington, Floyd, and Clark Counties, Ind., which are on and north of a line beginning at the Indiana-Ohio State Boundary line and extending along U.S. Highway 224 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State Boundary line and (4) between points in Ohio on, east, and north of a line

beginning at Lake Erie and extending along U.S. Highway 23 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 30 (formerly U.S. Highway 30N), thence along U.S. Highway 30 to the Ohio-West Virginia State Boundary line, on the one hand, and, on the other, points in Indiana which are in and east and north of Vermillion, Vigo, Sullivan, Greene, Daviess, Martin, Orange, Washington, Floyd, and Clark Counties, Ind., and which are on and south of a line beginning at the Indiana-Ohio State Boundary line and extending along U.S. Highway 224 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State Boundary line; and (5) between points in that part of Ohio on and east of a line beginning at Sandusky, Ohio, and extending along Ohio Highway 4 to junction U.S. Highway 23, thence along U.S. Highway 23 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to the Ohio-West Virginia State Boundary line, on the one hand, and, on the other, Chicago, Ill. and points in Illinois which are in and east of DuPage, Cook, Will, Kankakee, Iroquois, and Vermillion Counties, Ill.; and

(6) Between points in that part of Ohio on and east of a line beginning at the Ohio-West Virginia State Boundary line and extending along U.S. Highway 33 to Columbus and thence along U.S. Highway 23 to the Ohio-Kentucky State Boundary line on the one hand, and, on the other, Chicago, Ill.; and points in and east of DuPage, Cook, Will, and Kankakee Counties, Ill., and which are on and north of Illinois Highway 17, and (7) between points in that part of Ohio on, east, and north of a line beginning at the Ohio-Michigan State Boundary line and extending along Interstate Highway 75 to its junction with Ohio Highway 309 (formerly U.S. Highway 30S), thence along Ohio Highway 309 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State Boundary line, on the one hand, and, on the other, points in Illinois which are in and east of Kankakee, Iroquois, and Vermillion Counties, Ill., and on and south of Illinois Highway 17; (8) between points in that part of Ohio on, north, and west of a line beginning at the Ohio-Michigan State Boundary line and extending along Interstate Highway 75 to Lima, Ohio, thence along Ohio Highway 309 (formerly U.S. Highway 30S) to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State Boundary line, on the one hand, and, on the other, points in Kentucky in and north of Jefferson, Shelby, Franklin, Woodford, Fayette, Clark, Montgomery, Bath, Rowan, Carter, and Boyd Counties, Ky.; and (9) between points in that part of Ohio on and east of a line beginning at the Ohio-Michigan State Boundary line and extending along Interstate Highway 75 to Findlay, Ohio, thence along U.S. Highway 224 to the Ohio-Pennsylvania State Boundary line, on the one hand, and, on the other,

points in Kentucky which are in and north of Jefferson, Shelby, Franklin, Woodford, and Fayette Counties, Ky. which are on and west of Interstate Highway 75; and

(10) Between points in that part of Ohio on, north, and west of a line beginning at Toledo, Ohio, thence along Interstate Highway 75 to junction Ohio Highway 81, thence along Ohio Highway 81 to the Ohio-Indiana State Boundary line, on the one hand, and, on the other, points in West Virginia in and north and west of Wayne, Cabell, Putnam, Jackson, Wirt, Ritchie, Tyler, Wetzel, Marshall, Ohio, Brooke, and Hancock Counties, W.Va.; and (11) between points in that part of Ohio on, west, and north of a line beginning at the Ohio-Michigan State Boundary line and extending along Ohio Highway 109 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Ohio Highway 81, thence along Ohio Highway 81 to the Ohio-Indiana State Boundary line, on the one hand, and, on the other, Pittsburgh and points in Pennsylvania on and west of Interstate Highway 79; and (12) between points in Ohio.

NOTE.—Applicant holds authority under Certificate No. MC 7166 and subs to perform the proposed service between the described areas of Ohio and the described areas of Illinois, Indiana, Kentucky, West Virginia, Pennsylvania, Ohio, and Michigan which are within 200 miles of Ottawa, Ohio. The purpose of this application is to clarify the 200 mile radius by using state-line, county and highway boundaries in the named states. Applicant seeks no duplicating authority. Applicant also requests that this application be processed with Complaint proceeding MC-C-8831 and applicant's concurrently filed petition to reopen applicant's MC 7166 "grandfather" proceeding and applicant's MC 7166 Sub-1 extension proceeding. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 21455 (Sub-No. 39) (Restrictive amendment), filed November 6, 1975, published in the FEDERAL REGISTER issue of November 28, 1975, and republished, as restrictively amended, this issue. Applicant: GENE MITCHELL CO., 1106 Division St., West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Precast polyester resing building panels, from the plantsite and facilities of Babcock Co., at or near Williamsburg, Iowa, to points in the United States (except Alaska and Hawaii) and (2) architectural crushed rock, in packages and containers, from points in the United States (except Alaska and Hawaii), to the plantsite and facilities of Babcock Co., at or near Williamsburg, Iowa.

NOTE.—The purpose of this republication is to restrictively amend the application as stated above. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 25562 (Sub-No. 29), filed January 20, 1976. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, N.Y. 14611. Applicant's representative: Robert V. Gianniny, 900 Midtown Tower, Rochester, N.Y. 14604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Rensselaer County, N.Y., to points in Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or New York, N.Y.

No. MC 29555 (Sub-No. 87), filed Dec. 18, 1975. Applicant: BRIGGS TRANSPORTATION CO., a Corporation, 2360 West County Road "C", St. Paul, Minn. 55113. Applicant's representative: Winston W. Hurd (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (a) Between Alliance and Antioch, Nebr., over Nebraska State Highway 2, and return over the same route. (b) Between Alliance, Nebr., over U.S. Highway 385 to the junction of U.S. Highway 385 and U.S. Highway 20, serving the point of junction for purposes of joinder only, and return over the same route. (c) Between the junction of Nebraska State Highway 2 and U.S. Highway 83 over U.S. Highway 83 to the junction of U.S. Highway 20 and U.S. Highway 83, serving the point of junction for purposes of joinder only, and return over the same route. (d) Between the junction of Nebraska Highway 92 and the junction of U.S. Highway 281 north of St. Paul, Nebr.; thence over U.S. Highway 281 to O'Neil, Nebr., for operating convenience only, and return over the same route, serving no intermediate points in (a), (b), (c), and (d) above.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn., or Denver, Colo.

No. MC 38536 (Sub-No. 2), filed January 8, 1976. Applicant: COAST CARTAGE CO., 2100 Alhambra Avenue, Los Angeles, Calif. 90033. Applicant's representative: Clarence William Vandegrift, 1709 New York Avenue, N.W., Suite 305, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment) moving on bills of lading of freight forwarders operating pursuant to Part IV of the Interstate Commerce Act, between points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland,

Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 41404 (Sub-No. 122), filed January 21, 1976. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Fulton Highway, P.O. Box 440, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except commodities in bulk, in tank vehicles), from Gulfport, Miss., to points in Alabama, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Nashville, Tenn.

No. MC 41404 (Sub-No. 123), filed January 28, 1976. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, P.O. Box 440, Fulton Highway, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods*, from Nashville, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Ohio, Texas, and Wisconsin, restricted to shipments originating at the plantsite or warehouse facilities of Tennessee Doughnut Company and destined to the named States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Nashville or Memphis, Tenn.

No. MC 42487 (Sub-No. 846), filed January 26, 1976. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, P.O. Box 3062, Portland, Ore. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato products*, from Clearfield, Utah, to points in Arizona, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Ohio, South Dakota, Utah, Wisconsin, Wyoming, and Louisville, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Salt Lake City, Utah.

No. MC 52709 (Sub-No. 337), filed January 9, 1976. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St.,

Denver, Colo. 80207. Applicant's representative: Robert P. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Interstate Commerce Commission, commodities in bulk, and those requiring special equipment), (1) (a) between South Bend, Ind., and Kalamazoo, Mich., for operating convenience only, serving no intermediate points: From South Bend, Ind., over U.S. Highway 31 to junction Michigan Highway 60, thence over Michigan Highway 60 to junction U.S. Highway 131, thence over U.S. Highway 131, to Kalamazoo, Mich., and return over the same route; (b) between Chicago, Ill., and Minneapolis, Minn., for operating convenience only, serving no intermediate points: From Chicago, Ill., over Interstate Highway 90 to junction Interstate Highway 94, thence over Interstate Highway 94 to Minneapolis, Minn., and return over the same route; (c) between Billings, Mont. and Bonner, Mont. for operating convenience only, serving no intermediate points: From Billings, Mont. over Interstate Highway 90 to junction Montana Highway 200, thence over Montana Highway 200 to Bonner, Mont., and return over the same route; (d) between Minneapolis, Minn., and Des Moines, Iowa, for operating convenience only, serving no intermediate points: From Minneapolis, Minn., over Interstate Highway 35 to junction Interstate Highway 235, thence over Interstate Highway 235 to Des Moines, Iowa, and return over the same route.

(e) Between Des Moines, Iowa, and St. Louis, Mo. for operating convenience only, serving no intermediate points: From Des Moines, Iowa over Interstate Highway 235 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Interstate Highway 70, thence over Interstate Highway 70 to St. Louis, Mo., and return over the same route; (f) between Milwaukee, Wis., and junction Interstate Highways 94 and 90 at or near Madison, Wis., for operating convenience only, serving no intermediate points: From Milwaukee, Wis., over Interstate Highway 94 to junction Interstate Highway 90, and return over the same route. Regular routes: (2) (a) between Chicago, Ill., and Kansas City, Mo., serving no intermediate points: From Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 70, thence over Interstate Highway 70 to Kansas City, Mo., and return over the same route; (b) between Des Moines, Iowa and Kansas City, Mo., serving no intermediate points: From Des Moines, Iowa over Interstate Highway 235 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction U.S. Highway 136, thence over U.S. Highway 136 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction Interstate Highway 35, thence over Interstate Highway 35 to Kansas City,

Mo., and return over the same route. From Des Moines, Iowa over Interstate Highway 235 to junction Interstate Highway 35, thence over Interstate Highway 35 to Kansas City, Mo., and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo., or Kansas City, Mo.

No. MC 53965 (Sub-No. 113), filed January 14, 1976. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Wichita, Kans., and Tulsa, Okla.: From Wichita, Kans. over Kansas Highway 96 to the junction of Kansas Highway 47, thence over Kansas Highway 47 to the junction of U.S. Highway 75, thence over U.S. Highway 75 to the junction of Kansas Highway 37, thence over Kansas Highway 37 to the junction of U.S. Highway 169, thence over U.S. Highway 169 to Tulsa, Okla., and return over the same route, serving the intermediate point of Cherryvale, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Independence, Kans., Kansas City, Mo., or Tulsa, Okla.

No. MC 53965 (Sub-No. 114), filed January 30, 1976. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations, household and industrial cleaning products, insect control products, air fresheners, starches, brooms, brushes, mops, and promotional materials* (except in bulk), and (2) *equipment, materials, and supplies* used or useful in the manufacture, sale and distribution of the commodities in (1) above (except in bulk), between Great Bend, Kans., on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 58964 (Sub-No. 6), filed January 23, 1976. Applicant: CHESTER TRANSFER, INC., 1515 Oak Street, Chester, Ill. 62233. Applicant's representative: Oliver L. Ratz, Jr., 104 Orange, Red Bud, Ill. 62278. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Cake mixes, edible flour and foodstuffs, and paper products*, serving Perryville, Mo., as an off-route point in connection with its regular route between Chester, Ill., and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 63417 (Sub-No. 84), filed Jan. 13, 1975. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, 1814 Hollins Rd., N.E., P.O. Box 2888, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from Dublin and Macon, Ga., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, South Carolina, Tennessee, West Virginia, Virginia, and the District of Columbia; and (2) from Dublin, Ga., to points in Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 64808 (Sub-No. 22), filed January 22, 1976. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, W. Va. 26554. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glazing units, glass and glass products, and machinery, materials, equipment, and supplies* used in connection with the manufacture, sale, transportation, or distribution of glazing units, glass, and glass products (except commodities in bulk), between the plantsite of Fourco Glass Co. located at or near Fort Smith, Ark., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Charleston, W. Va.

No. MC 66886 (Sub-No. 49), filed January 29, 1976. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in the construction, maintenance, and operation of power stations (except commodities in bulk), between points in Platte County, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or consigned to the facilities of Kansas City Power & Light or St. Joseph Light & Power Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 69371 (Sub-No. 8), filed January 21, 1976. Applicant: NORMAN TRANSPORTATION LINES, INC., 6201 Lee Road, Cleveland, Ohio 44137. Applicant's representative: John H. Baker, 435 Delaware Avenue, Buffalo, N.Y. 14202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk in tank vehicles), (a) from Cleveland, Ohio, to points in Armstrong, Washington, and Westmoreland Counties, Pa.; (b) between Cleveland and Salem, Ohio, on the one hand, and, on the other, points in Warren and McKeon Counties, Pa., and points in Cattaraugus, Steuben, and Livingston Counties, N.Y.; and (c) from Cleveland and Salem, Ohio, to Chemung County, N.Y., under a continuing contract or contracts in (a), (b), and (c) above with The Great Atlantic & Pacific Tea Company, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Buffalo, N.Y., or Columbus, Ohio.

No. MC 69492 (Sub-No. 51), filed January 26, 1976. Applicant: HENRY EDWARDS, doing business as HENRY EDWARDS TRUCKING COMPANY, P.O. Box 97, Clinton, Ky. 42301. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from San Antonio, Tex., to Memphis, Jackson, Dresden, and Dyersburg, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Memphis or Nashville, Tenn.

No. MC 69833 (Sub-No. 113), filed January 26, 1976. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), serving Southwind Maritime Centre located at or near Mt. Vernon, Posey County, Ind., as an off-route point in connection with its authorized regular route operation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 75320 (Sub-No. 185), filed January 22, 1976. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Applicant's representative: John A. Crawford, P. O.

Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Cryovac Division, W. R. Grace & Co. located at or near Iowa, Park, Tex., as an off-route point in connection with carrier's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 82079 (Sub-No. 45), filed Feb. 2, 1976. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue, SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles, from the plantsites and warehouse facilities of Quality Restaurant Suppliers, Inc., at or near Marshall, Mich., to points in Ohio, Michigan, Indiana, and Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lansing or Detroit, Mich.

No. MC 83539 (Sub-No. 427), filed January 22, 1976. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Ex Parte No. MC 45, *Descriptions in Motor Carrier Certificates*, Appendix V, 61 M.C.C. 276, from Houston, Tex. and its Commercial Zone, to the plantsite of Bucyrus-Erie Co., located at or near Pocatello, Idaho, restricted to traffic originating at the named origin point and destined to the plantsite of Bucyrus-Erie Co., located at or near Pocatello, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 83835 (Sub-No. 128), filed January 27, 1976. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to points in Kansas, Oklahoma, Ohio, and Texas, restricted to traffic originating at the steel mill facilities of the Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr. and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests a consolidated record with similar applications at either Omaha, Nebr., or Kansas City, Mo.

No. MC 94265 (Sub-No. 245), filed Feb. 2, 1976. Applicant: BONNEY MOTOR EXPRESS, INC., Route 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Michael J. Glynn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail food chains and grocery houses (except in bulk), from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Norfolk, Va.; Atlanta and Thomasville, Ga.; Columbia, S.C.; and Raleigh, N.C.; and points in their Commercial Zones, restricted to the transportation of traffic originating at the named origins and destined to the warehouse or other facilities utilized by Colonial Stores, Inc., at the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 95920 (Sub-No. 42), filed January 21, 1976. Applicant: SANTRY TRUCKING COMPANY, 115522 S.W. Pacific Highway, Portland, Ore. 97223. Applicant's representative: George R. LaBlissiere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial chemicals* in containers, from Salt Lake City, Utah, to ports of entry on the International Boundary line between the United States and Canada located at or near Blaine or Sumas, Wash., under a continuing contract or contracts with Van, Waters & Rogers, Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 98327 (Sub-No. 19) (Correction), filed January 5, 1976, published in the FEDERAL REGISTER issue of February 5, 1976, republished as corrected this issue. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, Calif. 94621. Applicant's representative: Bertram S. Silver, 140 Montgomery Street, Fourth Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which require the use of special equipment), (1) Between Portland, Ore., and Vancouver, Wash.: From Portland, Ore., over Interstate Highway 5 to Vancouver, Wash., and return over the same route; (2) Between Blythe, Calif., and Nogales, Ariz., serving all intermediate points: From Blythe, Calif., over U.S. Highway 60 to Phoenix, Ariz., thence over Interstate Highway 10 to Tucson, Ariz., thence over Interstate Highway 19 to Nogales, Arizona, and return over the same route; (3) Be-

tween Winterhaven, Calif., and Phoenix, Ariz., serving all intermediate points:

From Winterhaven, Calif., over U.S. Highway 80 to Phoenix, Ariz., and return over the same route; (4) Between Gila Bend, Ariz., and Junction Interstate Highway 8 and Interstate Highway 10 (near Arizona City, Ariz.), serving all intermediate points: From Gila Bend, Ariz., over Interstate Highway 8 to its junction with Interstate Highway 10 near Arizona City, Ariz., and return over the same route; (5) Between Gila Bend and Douglas, Ariz., serving all intermediate points: From Gila Bend, Ariz., over Arizona Highway 85 to its junction with Arizona Highway 86, thence over Interstate Highway 10 to Benson, Ariz., thence over U.S. Highway 80 to Douglas, Ariz., and return over the same route; (6) Between Junction Arizona Highway 90 and Interstate Highway 10 (near Benson, Arizona) and Douglas, Ariz., serving all intermediate points: From Junction Arizona Highway 90 and Interstate Highway 10 over Arizona Highway 90 to its junction with U.S. Highway 80, thence over U.S. Highway 80 Douglas, Ariz., and return over the same route; (7) Between Blythe, Calif., and Parker, Ariz., serving all intermediate points and serving the off-route point of the Parker Dam Site: From Blythe, Calif., over U.S. Highway 95 to its junction with California Highway 62 (north of Vidal, Calif.), thence over California Highway 62 to the California/Arizona border, thence over Alabama Highway 95 to Parker, Ariz., and return over the same route; and (8) Between Yuma, and Quartzsite, Ariz., for operating convenience only serving no intermediate points: From Yuma, Ariz., over U.S. Highway 95 to Quartzsite, Ariz., and return over the same route. Service is authorized at all off-route points in the counties of Yuma, Maricopa, Pinal, and Pima, Ariz.

NOTE.—The purpose of this republication is to correct the requested authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco or San Diego, Calif., or Tucson, Ariz.

No. MC 100666 (Sub-No. 314), filed January 23, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Willburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators, dust control systems, blow pipe systems, and accessories*, from the plant sites of Allstate Fabricating Company located at or near Eads, Tenn., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 100666 (Sub-No. 315) filed January 26, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's repre-

sentative: Wilburn L. Williamson, 3535 NW. 58th, 280 National Foundation Life Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Danville, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 101826 (Sub-No. 3), filed January 19, 1976. Applicant: CONTINENTAL DRIVE AWAY, INC., P.O. Box 323, Duncan, Okla. 73533. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Specialty equipped vehicles* used in: (a) cementing casing in oil, gas, and water wells; (b) testing, acidizing, and fracturing formations in oil and gas wells; (c) perforating oil, gas, and water wells; (d) hydrostatic testing of oil and gas pipelines; (e) chemically or mechanically removing greases, oils, scale, corrosion, or other accumulated deposits in oil refinery and industrial machinery and equipment; (f) forceably injecting grouting materials into subsurface cracks, seams, pores, and into restricted areas; (g) testing, inspecting, and repairing sewer or other subsurface transmission lines; and (2) *trucks, tractors, tractor-trailer units, trailers and semi-trailers* owned, leased, or controlled by Halliburton Company, in drive-away and tow-away service, between points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Halliburton Company, located in Duncan, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla., or Dallas, Tex.

No. MC 103051 (Sub-No. 362), filed January 26, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn, cane, and beets, and blends of said commodities*, in bulk, from Decatur, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn., or Atlanta, Ga.

No. MC 103926 (Sub-No. 47), filed January 19, 1976. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Earth-moving, construction, mining, and maintenance machinery and equipment; street sweeping machines; tractors*, with or without dozer blade, winch, towing,

lifting, or loading device; articles requiring special equipment, and parts, implements, attachments, accessories, and supplies for commodities named above when moving incidentally thereto, from the facilities of Athey Products Corporation, located at or near Wake Forest, N.C., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh and Charlotte, N.C., or Atlanta, Ga.

No. MC 105045 (Sub-No. 61), filed January 28, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size or weight require the use of special equipment and parts thereof, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, and (3) *pipe*, between Posey County, Ind., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105461 (Sub-No. 93), filed January 26, 1976. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, Pa. 17566. Applicant's representative: Robert R. Herr (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foodstuffs and commodities in bulk) and *materials, supplies, and equipment* used in the production and distribution of foodstuffs, between the facilities of Kellogg Company in East Hempfield Township, Lancaster County, Pa., on the one hand, and, on the other, points in New Jersey and New York, restricted to traffic originating at or destined to the above-named facilities of Kellogg Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lancaster or Harrisburg, Pa., or Washington, D.C.

No. MC 105501 (Sub-No. 15), filed January 19, 1976. Applicant: TERMINAL WAREHOUSE COMPANY, 1851 Radisson Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, W-1260 First National Bank Bldg., Saint Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products* (except in bulk), from St. Paul, Minn., to points in North Dakota, South Dakota, Iowa, Wisconsin, and points in Nebraska on and east of U.S. Highway 183, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul or Minneapolis, Minn.

No. MC 106400 (Sub-No. 107), filed January 23, 1976. Applicant: KAW TRANSPORT COMPANY, a Corporation, P.O. Box 12628, North Kansas City, Mo. 64116. Applicant's representative: Robert L. Hawkins, Jr., P.O. Box 456, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt*, in bulk, in tank vehicles, from the plant site of Mid America Asphalt Co. located at or near Kansas City, Mo., to Omaha, Lincoln, and Fremont, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 106674 (Sub-No. 184), filed Dec. 15, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete construction materials and supplies*, from North Judson, Ind., to points in Alabama, Colorado, Georgia, Illinois, Kansas, Kentucky, Michigan, Missouri, New Mexico, North Carolina, Ohio, Tennessee, Texas, West Virginia, Louisiana, Mississippi, Arkansas, Oklahoma, South Carolina, Wisconsin, and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 106674 (Sub-No. 186), filed January 21, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, (1) from Lee, Mass., to points in Pennsylvania and Ohio; and (2) from Jonesville, N.C., to points in Ohio, Kentucky, Pennsylvania, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 106775 (Sub-No. 39) (Correction), filed September 8, 1975, published in the FEDERAL REGISTER issues of January 22, 1976, and February 26, 1976, republished as corrected this issue. Applicant: ATLAS TRUCK LINE, INC., P.O. Box 9848, Houston, Tex. 77015. Applicant's representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum articles, iron and steel tanks, aluminum tanks, and parts, attachments, and accessories*, for iron and steel tanks and aluminum tanks, and contractors equipment, from points in Liberty County, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas,

restricted to traffic originating at the plantsite and warehouse facilities of Pittsburgh-Des Moines Steel Company.

NOTE.—The purpose of this republication is to indicate that MC 106775 Sub-No. 38 was republished in the FEDERAL REGISTER issues of January 22, 1976, and February 26, 1976, in error. The republication should have been shown in docket number MC 106775 Sub-No. 39. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston, or Dallas, Tex.

No. MC 107107 (Sub-No. 447), filed January 28, 1976. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery and related advertising and promotional materials*, when moving with such candy and confectionery, from the warehouse and storage facilities of Schrafft Candy Company located at or near Wilmington, Mass., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109682 (Sub-No. 34), filed January 21, 1976. Applicant: WHITEFORD TRANSPORT, INC., 620 Ireland Road, South Bend, Ind. 46614. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Van conversions and van delivery vehicles*, from points in Elkhart County, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 110563 (Sub-No. 168), filed January 29, 1976. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747 Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Champlain, N.Y., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany or New York City, N.Y.

No. MC 111170 (Sub-No. 225), filed January 12, 1976. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El

Dorado, Ark. 71730. Applicant's representative: Don A. Smith, P.O. Box 43, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alumina*, in bulk, from Bauxite, Ark., to points in Oklahoma (2) *aluminum sulphate clay*, from Little Rock, Ark., to Bastrop, La., (3) *pulp mill liquid chemicals*, in bulk, in tank vehicles from Ashdown, Ark., to points in Louisiana; and (4) *asphalt and asphalt materials*, in packages on flatbed trailers with removable side boards, from points in Union County, Ark., to points in Mississippi and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Memphis, Tenn.

No. MC 111302 (Sub-No. 84) (Correction), filed January 5, 1976, published in the FEDERAL REGISTER issue of February 10, 1976, republished as corrected this issue. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Knoxville, Tenn., and points within 5 miles thereof, to points in Virginia.

NOTE.—The purpose of this republication is to indicate the 5 mile radius which was previously omitted from the FEDERAL REGISTER. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 112016 (Sub-No. 12), filed January 29, 1976. Applicant: BENMAR TRANSPORT & LEASING CORP., 405 Third Avenue, Brooklyn, N.Y. 11215. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by ready-to-wear apparel stores and supplies used in the conduct of such business (except commodities in bulk)*, between New York, N.Y., and Secaucus, N.J., on the one hand, and, on the other, points in Michigan, under a continuing contract or contracts with Jubilee Shops, Inc.

NOTE: If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 112304 (Sub-No. 106), filed January 28, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Lead and lead alloys (except commodities which because of size or weight require the use of special transportation equipment)*, and (2) *equipment, materials, and supplies (except commodities in bulk)*, used in the manufacturing and processing of

the commodities described in (1) above, between Glover, Mo., on the one hand, and, on the other, points in the United States except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or St. Louis, Mo.

No. MC 112822 (Sub-No. 396), filed January 26, 1976. Applicant: BRAY LINES INCORPORATED, 1401 N. Litti. Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, char-fireplace logs, and lighter and starter fluid (except in bulk)*; (1) from Jacksonville, Tex., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Utah, Washington, Wisconsin, and Wyoming and; (2) from Paris, Tex., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 112354 (Sub-No. 37), filed January 28, 1976. Applicant: HOLLEBRAND TRUCKING, INC., P.O. Box 164, Ontario Center, N.Y. 14520. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Wood chips*, from Sodus, N.Y., to points in Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 113267 (Sub-No. 328), filed January 21, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, edible tallow, shortening, vegetable oil shortening, cooking oils, and margarine*, from Bradley and Kankakee, Ill., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 329), filed January 22, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-*

products, and articles distributed by meat packinghouses as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles and hides), from the plantsite and storage facilities utilized by John Morrell & Co., located in Memphis, Tenn., to points in Illinois on and north of U.S. Highway 40 restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 330), filed January 22, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles and hides), (1) from the plantsite and storage facilities utilized by John Morrell & Company located at Memphis, Tenn., to Sioux Falls, S. Dak.; and (2) from the plantsite and storage facilities utilized by John Morrell & Company located at Shreveport, La., to points in Illinois, restricted in (1) and (2) above to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113495 (Sub-No. 73), filed January 27, 1976. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham St., Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Mining machinery and equipment, and parts thereof*, from Bluefield, Va.-W. Va., to points in Alabama, Colorado, Illinois, Indiana, Kentucky, Nevada, New Mexico, Ohio, Pennsylvania, Tennessee, Utah, Virginia, West Virginia, and Wyoming; and (2) *materials and supplies* used in the manufacture and installation of mining machinery and equipment (except commodities in bulk), from points in Alabama, Colorado, Illinois, Indiana, Kentucky, Nevada, New Mexico, Ohio, Pennsylvania, Tennessee, Utah, Virginia, West Virginia, and Wyoming to Bluefield, Va.-W. Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 113646 (Sub-No. 13), filed January 21, 1976. Applicant: JEFFERSON

TRUCKING COMPANY, P.O. Box 17, National City, Mich. 48748. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Gypsum board paper*, from Pryor, Okla., to the plantsite of National Gypsum Company, located at or near Shoals, Ind. (Martin County); and (2) *waste or scrap paper*, from points in Arkansas, Illinois, Indiana, Missouri, and Kansas City, Kans., and Memphis, Tenn., to the plantsite of National Gypsum Company, located at Pryor, Okla., under a continuing contract or contracts with National Gypsum Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., Chicago, Ill., or Washington, D.C.

No. MC 113843 (Sub-No. 230), filed Jan. 5, 1976. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, Suite 222, 600 Enterprise Drive., Oak Brook, Ill. 60521. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Frankfort, Mich., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, Delaware, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 114569 (Sub-No. 132), filed January 23, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail, wholesale, chain grocery, and food business houses* (except commodities in bulk), from the facilities of Knouse Foods, Inc., located at points in Adams and Franklin Counties, Pa., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, Wisconsin, and Wyoming, restricted to traffic originating at the facilities of Knouse Foods, Inc., in Adams and Franklin Counties, Pa., and destined to points in the named states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Harrisburg, Pa., or Washington, D.C.

No. MC 114569 (Sub-No. 133), filed January 29, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Duane W. Acklie, P.O. Box

81228, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the villages of Fairwater and Beaver Dam, Wis., to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

No. MC 114896 (Sub-No. 33), filed January 30, 1976. Applicant: PUROLATOR SECURITY, INC., 1111 W. Mockingbird Lane, Suite 1401, Dallas, Tex. 75222. Applicant's representative: John M. Delany, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Coins, currency and checks*, between Springfield, Mass., on the one hand, and, on the other, Berlin, Branford, Bristol, Brookfield, Enfield, Hamden, Hartford, Manchester, Newington, North Haven, Rocky Hill, Southington, Trumbull, Wallingford, West Hartford, and Westport, Conn., under a continuing contract or contracts with Food Mart, Inc., located in Holyoke, Mass.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 115352 (Sub-No. 5), filed January 23, 1976. Applicant: R. H. REDIKER TRANSPORT LTD., Main Street, Beebe, Quebec, Canada. Applicant's representative: John P. Monte, 61 Summer St., Barre, Vt. 05641. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Stone, and quarrying, stone manufacturing equipment, materials, and supplies*, between ports of entry located on the International Boundary line between the United States and Canada at or near North Troy, Highgate Springs, Derby Line, and Norton, Vt., on the one hand, and, on the other, points in Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Montpelier, Vt., Boston, Mass., or Washington, D.C.

No. MC 115570 (Sub-No. 9), filed January 26, 1976. Applicant: WALTER A. JUNG, INC., 3818 SW, 84th Street, Tacoma, Wash. 98491. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, (1) from Salt Lake City, Utah, to points in Nevada; (2) from Tacoma, Wash., to points in Oregon; (3) from Union City, San Jose, Tracy, and Los Angeles, Calif., to points in Oregon and Washington, under a continuing contract or contracts with St. Regis Paper Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 115821 (Sub-No. 19), filed January 22, 1976. Applicant: FRANK

BEELMAN, doing business as BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kiln dust*, in bulk, from the plantsite of Dundee Cement Company located at or near Clarksville, Mo., to points in Illinois, Iowa, and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., or Jefferson City, Mo.

No. MC 116077 (Sub-No. 370), filed January 26, 1976. Applicant: ROBERTSON TANK LINES, INC., 2000 West Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: Pat H. Robertson, 500 West Sixteenth St., P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid petro chemicals*, in bulk, in tank vehicles, from Harris County, Tex., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Maryland, Massachusetts, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, South Dakota, and Virginia; (2) *liquid petro chemicals*, in bulk, in tank vehicles, from Texas City, Texas, to points in Alabama, Arizona, California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Montana, North Carolina, New Mexico, Oklahoma, Ohio, Pennsylvania, South Carolina, Utah, and Wisconsin; and (3) (a) *liquid petro chemical*, in bulk, in tank vehicles, from North Seadrift, Tex., to points in Kentucky, Mississippi, Missouri, New Jersey, Ohio, and Virginia, and (b) *dry plastics*, in bulk, in tank vehicles, from North Seadrift, Tex., to points in Illinois, Indiana, and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Houston or Dallas, Tex.

No. MC 116702 (Sub-No. 44), filed January 20, 1976. Applicant: THAD-DEAUS A. GORSKI, doing business as GORSKI BULK TRANSPORT, Box 700, Harrow, Ontario, Canada. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in bulk, in tank vehicles, from the International Boundary line between the United States and Canada, located at points in Idaho, Michigan, Montana, New York, and Washington to Menlo Park, Calif., under a continuing contract or contracts with Heublein, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Hartford, Conn., Detroit, Mich., or Washington, D.C.

No. MC 116763 (Sub-No. 334), filed January 28, 1976. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (Same

address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products* (except in bulk, in tank vehicles), from Scott and Stoddard Counties, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 116886 (Sub-No. 42), filed January 13, 1976. Applicant: HOWELL'S MOTOR FREIGHT, INCORPORATED, 2210 Winston Avenue SW., Roanoke, Va. 24014. Applicant's representative: R. R. Rush, 301 1st Street SW., P.O. Box 1018, Roanoke, Va. 24005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between points in Hamilton County, Ohio, points in that part of Indiana on and south of U.S. Highway 40, and those in that part of Kentucky on and east of U.S. Highway 41.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 35 a Hamilton, Ohio, to provide service between points in that part of Indiana on and south of U.S. Highway 40 and those in that part of Kentucky on and east of U.S. Highway 41, and points in West Virginia. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 116915 (Sub-No. 20), filed January 26, 1976. Applicant: ECK MILLER TRANSPORTATION CORPORATION, 2015 Alspo Lane, P.O. Box 1279, Owensboro, Ky. 42301. Applicant's representative: Fred Bradley, Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-ferrous metals* (except in bulk), between points within the United States in and east of Iowa, Kansas, Minnesota, Nebraska, Oklahoma, and Texas, restricted to service only for Tower Metal & Ore Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lexington, Ky., Louisville, Ky., or Washington, D.C.

No. MC 117068 (Sub-No. 60), filed January 23, 1976. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enamelled steel, silos, silo loading and unloading devices, waste storage tanks, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories* for the above named commodities, from the plant site of A. O. Smith Corporation, at or near Dekalb and Eureka, Ill., to points on the International Boundary line between the United States and Canada located at Port Huron (Detroit, Mich.), and Sault St. Marie, Mich., restricted to traffic mov-

ing in foreign commerce and on self-unloading equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118989 (Sub-No. 132), filed January 30, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, ends, and components*, from the plantsite of American Can Company located at Milwaukee, Wis., to Chicago, and Itasca, Ill., and Munster and Ft. Wayne, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118989 (Sub-No. 133), filed February 2, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, ends, and components, and materials and supplies* used in the manufacture and distribution of containers, container closures, ends, and components, between the plantsite of American Can Company located at Milwaukee, Wis.; Chicago and Hoopeston, Ill.; Indianapolis, Hammond, and Austin, Ind.; St. Louis, Mo.; St. Paul and Austin, Minn., and Delaware, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119176 (Sub-No. 14), filed January 26, 1976. Applicant: THE SQUAW TRANSIT COMPANY, a Corporation, 6211 S. 49th West Ave., P.O. Box 9368, Tulsa, Okla. 74107. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cooling towers and fluid coolers, and parts and accessories* for cooling towers and fluid coolers; and (2) *materials, equipment, and supplies*, used in the manufacture, sale and distribution of the commodities described in (1) above (except commodities in bulk), between Houston, Tex., Tulsa, Okla., Henderson, Ky., Stockbridge, Ga., and points in Sonoma County, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the facilities of Ecodyne Cooling Products, Division of Ecodyne Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tulsa or Oklahoma City, Okla.

No. MC 119422 (Sub-No. 58) (Correction), filed November 28, 1975, published in the FEDERAL REGISTER issue of January 8, 1976, republished as corrected this

issue. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, E. St. Louis, Ill. 62204. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lube oil*, in bulk, from the plantsite of Mobil Oil Corporation at St. Louis, Mo., to points in Arkansas, Illinois, Kansas, Kentucky, Louisiana, Nebraska, and Texas.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 119774 (Sub-No. 89), filed January 19, 1976. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Fifth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories*, from the plantsite and storage facilities of Elk Corporation, located at or near Stephens and Camden, Ark., to points in Alabama, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Shreveport, La.

No. MC 119777 (Sub-No. 325), filed January 28, 1976. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer L, Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cross ties*, between points in Alabama and Mississippi, on the one hand, and, on the other, points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Tennessee, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 126970 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Birmingham, Ala., or Nashville, Tenn.

No. MC 119777 (Sub-No. 326), filed January 28, 1976. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer L, Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas, or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and (2) *parts, materials, equipment, and supplies*, used in the manufacture, distribution, installation, or operation of those items named in (1) above (except in bulk), between points

in Monroe, Randolph, Perry Counties, Ill., and St. Clair County, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company at Monroe, Randolph, Perry, and St. Clair, Counties, Ill.

NOTE.—Applicant holds contract carrier in MC 126970 and subs thereto, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 119880 (Sub-No. 78), filed January 26, 1976. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from DiGiorgio, Calif., to New Braunfels, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Bakersfield, Calif.

No. MC 123255 (Sub-No. 62), filed January 16, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) from the plantsite and storage facilities of Joan of Arc Company at or near Mayville, Wis., and Princeville, Ill., to points in the United States on and east of U.S. Highway 85; and (2) from the plantsite and storage facilities of Joan of Arc Company at or near Hoopeston, Ill., to points in the United States on and east of U.S. Highway 85 (except points in Indiana, Ohio, and the Lower Peninsula of Michigan, St. Louis, Mo., Louisville and Covington, Ky., Davenport, Iowa, Belle Vernon, Beaver Falls, Greensburg, Republic, Elizabeth, Washington, Murrysville, Pittsburgh, Butler, New Brighton, Charleroi, and Sharon, Pa., and those in West Virginia within 10 miles of the Ohio-West Virginia State Boundary line.).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123387 (Sub-No. 4), filed January 23, 1976. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Norfolk, Va., to points in Alabama, Florida, Louisiana, Mississippi, and Tennessee; and (2) *empty malt beverage containers*, from points in Alabama, Florida, Louisiana, Mississippi, and Tennessee, to Norfolk, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Norfolk, Va.

No. MC 123405 (Sub-No. 43), filed January 23, 1976. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, Pa. 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses* (except commodities in bulk), from the plantsites and storage facilities of D. Westervelt, Inc., at or near Hanover, New Freedom, and Shrewsbury, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, New Jersey, North Carolina, South Carolina, Pennsylvania, and the District of Columbia, restricted to traffic originating at and destined to the points indicated above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Harrisburg, Pa., or Washington, D.C.

No. MC 123490 (Sub-No. 16), filed January 26, 1976. Applicant: CHIP CARRIERS, INC., 7171 Mercy Road, Omaha, Nebr. 68106. Applicant's representative: Einar Viren, 200 First West Side Bank Bldg., 200 South 72nd St., Omaha, Nebr. 68114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chips*, twists or puffs; *potato chips*, *fried pork skins*; *fried potatoes* (except chips); *pretzels*; *crackers*; *cookies*; *bakery goods* (except frozen); *popped corn* (except popped corn confectionary); *sugar* or *syrup coated popped corn* (except in balls or pressed form); *dry nut meats*; *shelled and salted peanuts*; *prepared food*; *pumpkin seeds*; *roasted sunflower seeds*; *ingredients*; *cooked, cured or preserved sausage*; *cooked, cured, or preserved meats*; *table sauces* (except dry); *corn syrup*; *dressing or stuffing*; *bean dip*; *food dips mixes*, dry; *imprinted advertising*; *packaging and display materials*; *wire or wire and sheet metal or wire and plastic combined store display racks and stands*, between points Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming under a continuing contract with Frito-Lay, Inc., at Dallas, Tex.

NOTE: If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Washington, D.C.

No. MC 124078 (Sub-No. 676), filed Jan. 5, 1976. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28 Street, P.O. Box 1601, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (Same address as applicant). Authority sought to operate as a *common carrier*, by motor ve-

hicle, over irregular routes, transporting: *Cement*, (1) from Howes Cave, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont; and (2) from points in Gwinnett County, Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 113822 Sub 63, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 124078 (Sub-No. 679), filed January 26, 1976. Applicant: SCHWERTMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn, cane, and beets, and blends thereof*, in bulk, in tank vehicles, from Decatur, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in NO. MC 113832 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 124154 (Sub-No. 68), filed January 23, 1976. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. BOX 645, Albany, Ga. 31702. Applicant's representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals and agricultural chemical materials*, in containers, between Bainbridge, Cedartown, and Tifton, Ga., and Lakeland, Fla., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE.—Applicant states the requested authority may be tacked at Cedartown and Tifton, Ga., and Lakeland, Fla., to provide service from points in Florida, Georgia, Alabama, Louisiana, and Mississippi to the destination states herein. If a hearing is deemed necessary, the applicant requests it be held at either Albany, Ga., Atlanta, Ga., or Tallahassee, Fla.

No. MC 125470 (Sub-No. 12), filed January 26, 1976. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour*, from the plantsite and storage facilities of O. A. Cooper Company, located at or near Humboldt, Nebr., to points in Iowa, Kansas, Missouri, and South Dakota; and (2) *feed and feed ingredients*, between the plantsites and storage facilities of O. A. Cooper Company, located at or near Humboldt, Cozad, South Sioux City, and Beatrice, Nebr., on the one

hand, and, on the other, points in Iowa, Kansas, Missouri, and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lincoln or Humboldt, Nebr.

No. MC 125916 (Sub-No. 5), filed January 29, 1976. Applicant: THERON E. COON, doing business as THERON E. COON TRUCKING CO., 2330 South 7200 West, Magna, Utah 84044. Applicant's representative: Macoy A. McMurray, 500 Kennecott Building, Salt Lake City, Utah 84133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt paving, crushed stone, dirt, earth, gravel, nonmetallic rock, and sand*, in bulk, and *slag and slag products*, between points in Salt Lake County, Utah, on the one hand, and, on the other, points in Uinta, Lincoln, Sweetwater, Sublette, and Fremont Counties, Wyo.

NOTE.—If a hearing is deemed necessary, the applicant request it be held at Salt Lake City, Utah.

No. MC 127042 (Sub-No. 166), filed January 8, 1976. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Sta., Sioux City, Iowa 51108. Applicant's representative: Robert G. Tassar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, scouring, and polishing compounds*, from Watertown, Wisc., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Milwaukee, Wisc.

No. MC 127042 (Sub-No. 168), filed January 26, 1976. Applicant: HAGEN, INC., 3232 Hwy. 75 N., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tassar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Flavorland Industries, Inc. of West Fargo, N. Dak., to points in Yellowstone County, Mont., King County, Wash., and Alameda, Fresno, Los Angeles, Orange, and San Francisco Counties, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Fargo, N. Dak.

No. MC 127840 (Sub-No. 44), filed January 26, 1976. Applicant: MONTGOMERY TANK LINES, INC., P.O. Box 382, 17550 Fritz Drive, Lansing, Ill. 60438. Applicant's representative: Charles R. Emhuff (same address as applicant). Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Products of corn* in bulk, from the plantsites and facilities of CPC International located at Chicago and Pekin, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 128087 (Sub-No. 4), filed January 30, 1976. Applicant: JOHN N. JOHN, III, doing business as JOHN N. JOHN TRUCK LINE, P.O. Box 921, Crowley, La. 70526. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Anse, LaButte, and Baldwin, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Baton Rouge or New Orleans, La.

No. MC 128246 (Sub-No. 13), filed January 30, 1976. Applicant: SOUTHWEST TRUCK SERVICE, a Corporation, P.O. Box AD, Watsonville, Calif. 95076. Applicant's representative: Michael P. Groom, 500 The Swenson Building, 777 No. First Street, San Jose, Calif. 95112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed meats*, in vehicles equipped with mechanical refrigeration, from the plantsite of Made-Rite Sausage, Inc., located at or near Sacramento, Calif., to the distribution center of Made-Rite Sausage, Inc., located at or near Eugene, Oreg., under a continuing contract or contracts with Made-Rite Sausage, Inc., located at or near Sacramento, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco or Sacramento, Calif.

No. MC 128273 (Sub-No. 218), filed January 5, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except canned goods, frozen foods and commodities in bulk), from Pittsburg, Modesto, and Stockton, Calif., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Wyoming, Colorado, and New Mexico, restricted to movement in mixed loads with canned goods.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 128273 (Sub-No. 220), filed January 28, 1976. Applicant: MIDWESTERN DISTRIBUTION, a Corporation, P.O. Box 189, 121 Humboldt St., Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 So. Horton St., Fort Scott, Kans. 66701. Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry powdered printing ink*, from Riegelsville, Milford, Hughesville, and Warren Glen, N.J., to points in the United States (except Alaska, Hawaii, Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and the District of Columbia).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 128273 (Sub-No. 221), January 26, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral micronutrients* used in manufacturing of plant food and animal foods (except commodities in bulk), from Beckemeyer, Ill.; Clearwater, S.C.; Lakeland, Fla.; Cedertown, Bainbridge, and Tifton, Ga., to points in the United States in an east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Tampa, Fla.

No. MC 128273 (Sub-No. 223), filed January 29, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 So. Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone and stone products*, from points in Costilla County, Colo., to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 128375 (Sub-No. 138), filed Dec. 22, 1975. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and those commodities* dealt in by distributors of paper (except in bulk), from points in Minnesota, to points in Iowa, Kansas, Missouri, Nebraska, and Oklahoma, under continuing contract with Western Paper Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Lincoln, Nebr.

No. MC 128383 (Sub-No. 66), filed January 26, 1976. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Avenue, Gaith-

ersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), Between Little Rock Municipal Airport, at Little Rock, Ark.; Tulsa International Airport at Tulsa, Okla.; Wiley Post Airport at Oklahoma City, Okla.; Will Rogers World Airport at Oklahoma City, Okla.; Austin Municipal Airport, Austin, Tex.; Waco Municipal Airport, Waco, Tex.; San Antonio International Airport, San Antonio, Tex.; El Paso International Airport, El Paso, Tex.; Dallas-Fort Worth International Airport, at Dallas-Fort Worth, Tex.; Houston Intercontinental Airport, Houston, Tex.; Kansas City International Airport, at Kansas City, Mo., and Memphis International Airport at Memphis, Tenn., restricted to the transportation of traffic with trailers equipped with roller bed floors and having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 129291 (Sub-No. 9), filed January 12, 1976. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, P.O. Box 64, Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Paris, Ky., and Carlisle, Ky.; From Paris, Ky., over U.S. Highway 68 to the southernmost junction of U.S. Highway 68 and Kentucky Highway 32, thence over Kentucky Highway 32 to Carlisle, Ky., and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Carlisle or Lexington, Ky.

No. MC 129615 (Sub-No. 17), filed December 24, 1975. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Applicant's representative: E. Drayson Helmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorhomes and recreational vehicles* (truck campers, pickup caps and covers, camping trailers, 5th wheel travel trailers, van conversions, travel trailers), between points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Elkhart, Ind. or Los Angeles, Calif.

No. MC 133095 (Sub-No. 90), filed January 20, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's

representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Television sets, record players, radios, home entertainment centers, and electronic equipment, and parts thereof and accessories therefor and materials, equipment and supplies* used in the manufacture and distribution thereof, between the plantsite and storage facilities of Curtis Mathes Manufacturing Co., Inc., located at Athens, Tex., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, and Texas).

NOTE.—Applicant holds contract carrier authority in MC 136032 and sub thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 133566 (Sub-No. 51), filed Jan. 6, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46347. Applicant's representative: Charles W. Beinhauer, 1224 17th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary* (except commodities in bulk); *advertising materials, premiums; toys; display stands, and dessert preparations*, from the plantsite and storage facilities of Leaf Confectionary, at Chicago, Ill., to points in Delaware, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, restricted to traffic originating at the above named plantsite, and destined to points in the named states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 133687 (Sub No. 2), filed December 29, 1975. Applicant: DAVID P. MCCARTHY, INC., 631-633 E. 12th Street, New York, N.Y. 10009. Applicant's representative: J. Aiden Connors, 145 East 49th Street, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cameras and camera outfits, camera lenses, unexposed film, cassettes, and advertising material* (1) between New York, N.Y. Commercial Zone, on the one hand, and, on the other, Carlstadt and Clark, N.J., and points in Nassau and Westchester Counties, N.Y.; and (2) between Carlstadt, N.J., and points in Nassau and Westchester Counties, N.Y., under contract with Kazutsugu Negro.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y. or Washington, D.C.

No. MC 133966 (Sub-No. 43), filed January 21, 1976. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 1 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladders and scaffolding*, from Newark Valley, N.Y., to Worcester, Boston, New Bedford, Lynn, and Port-

land, Mass., Londonderry, N.H., Providence, R.I., Hartford, Conn., and Scranton, Pa.

NOTE.—Applicant holds contract carrier authority in MC 139962, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y.

No. MC 134323 (Sub-No. 80) (correction), filed November 28, 1975, published in the FEDERAL REGISTER issue of January 8, 1976, republished as corrected this issue. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Gailyn L. Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, plastic materials, and plastic products, and equipment, materials, and supplies* used in the manufacture and distribution thereof (except in bulk), between the facilities of Union Carbide Corporation located at or near North Seadrift, Texas City and Houston, Tex. and Taft, La., on the one hand, and, on the other, points in Louisiana, Arkansas, Missouri, Illinois, Indiana, Nebraska, Wisconsin, Minnesota, Iowa, Texas, Oklahoma, North Dakota, South Dakota, Kansas, New Mexico, Colorado, Wyoming, and Montana, under a continuing contract or contracts with Union Carbide Corporation.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Lincoln, Nebr.

No. MC 134551 (Sub-No. 9), filed January 23, 1976. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., #3 Caine Drive, Madison, Ill. 62060. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packing-houses* as described in Appendix I to report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk), between the plant site and storage facilities of John Morrell and Co. located at Memphis, Tenn.; and points in Missouri, and that portion of the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone located in Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 134601 (Sub-No. 10), filed January 23, 1976. Applicant: GOOSE CREEK TRANSPORT, INC., R.D. #1, Ashville, N.Y. 14710. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing-houses* (except hides and commodities in

bulk), as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) between points in New York, on the one hand, and, on the other, points in Delaware, Maryland, Massachusetts, Pennsylvania, Virginia, and West Virginia; and (2) from points in Ohio to points in New York and Pennsylvania, (1) and (2) under a continuing contract with Fairbank Farms, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 134755 (Sub-No. 64), filed January 28, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except in bulk), from Phelps, Ava, Douglas, Republic, and Greene Counties, Mo., to points in Arkansas, Illinois, Indiana, Kansas, Mississippi, Missouri, Nebraska, New Mexico, Texas, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 138398 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Springfield and Kansas City, Mo.

No. MC 134765 (Sub-No. 17), filed January 26, 1976. Applicant: SPECIALTY TRANSPORT, INC., 369 James St., New Haven, Conn. 06510. Applicant's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags, paper and paper products and materials, supplies and equipment* used in the manufacture, sale and distribution of such commodities (except in bulk), between Chester, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Interstate Bag Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135231 (Sub-No. 15), filed January 14, 1976. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses (except commodities in bulk), from St. Cloud, Minn., to Charlotte, N.C., restricted to transportation of shipments originating at the facilities of Fingerhut Manufacturing Co., located at or near St. Cloud, Minn., and

destined to U.S. Post Offices or United Parcel Service, Inc., for immediate and subsequent movement by U.S. Mail or United Parcel Service, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 135410 (Sub-No. 3) (Correction), filed December 19, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as corrected this issue. Applicant: COURTNEY J. MUNSON, doing business as MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Jack H. Blanshan, Suite 200, W. Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packing-houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and storage facilities of Wilson & Co., located at or near Logansport, Ind., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to partial loading at the named origin in conjunction with the movement of traffic originating at the facilities of Wilson & Co., located at or near Monmouth, Ill.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135423 (Sub-No. 6), filed January 28, 1976. Applicant: FRANKLIN GORDON, R.R. 1, Manilla, Ind. 46150. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients* (except liquid bulk shipments of lards, fats, tallow, oils, and greases, in tank vehicles), from Rushville, Ind., to points in Pennsylvania, and Cayuga, N.Y., restricted to a transportation service to be performed under a continuing contract or contracts with Cargill, Incorporated, Nutrena Feed Division of Minneapolis, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind. or Washington, D.C.

No. MC 135952 (Sub-No. 4), filed January 22, 1976. Applicant: A-1ST TRUCKING & LEASING CORP., 180 Winfred Avenue, Yonkers, N.Y. 10704. Applicant's representative: Arthur J. Piken, One LeFrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in, used by, and sold by retail department stores*, (a) between the storage and distribution facilities of Caldor, Inc., at or near Secaucus, N.J. on the one hand, and, on the other,

points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; and (b) between the customer locations and store facilities of Caldor, Inc. located in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, under a continuing contract or contracts in (a) and (b) above with Caldor, Inc., Norwalk, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 136168 (Sub-No. 7), filed January 7, 1976. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the plantsites and warehouse facilities utilized by Wilson & Co., Inc., at Albert Lea, Minn.; Cedar Rapids, Cherokee and Des Moines, Iowa, to Kansas City, Kans.-Mo., Omaha, Nebr., and points located in their respective Commercial Zones; and (2) between the plantsite and warehouse facilities of Wilson & Co., Inc., at Albert Lea, Minn., on the one hand, and, on the other, the plantsites and warehouse facilities of Wilson & Co., Inc., at Cedar Rapids, Cherokee and Des Moines, Iowa, restricted to the transportation of traffic originating at the above named facilities and destined to the above specified destinations, and limited to a transportation service to be performed under a continuing contract with Wilson & Co., Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. or Oklahoma City, Okla.

No. MC 136211 (Sub-No. 37), filed January 27, 1976. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 2400 Latigo (P.O. Box 5067), Oxnard, Calif. 93031. Applicant's representative: Joseph E. Reban, 1230 Boatmen's Bank Building, 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishing, appliances, recreational equipment, carpeting and storage buildings*, knocked down, (1) from the warehouses and facilities of J. C. Penney Co., Inc. in St. Louis, Mo., to those points in Illinois on and bounded by a line beginning at the Missouri-Illinois State line at or near Moberly, Ill. and extending east along Illinois Highway 96 to Junction Illinois Highway 100, thence south along Illinois Highway 100 to Junction Illinois Highway 16, thence east along Illinois Highway 16, to Junction Illinois Highway

185, thence east and south along Illinois Highway 185 to Junction U.S. Highway 51 to Junction Illinois Highway 13, thence west along Illinois Highway 13 to Junction Illinois Highway 149, thence west along Illinois Highway 149 to Junction Illinois Highway 3, thence west and north along Illinois Highway 3 to the Illinois-Missouri State line at Chester, Ill. and thence along the Illinois-Missouri State line to the point of beginning and (2) *returned shipment of the above commodities from the destination territory described in (1) above to the origin described in (1) above*, parts (1) and (2) under a continuing contract or contracts with J. C. Penney Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., Los Angeles, Calif. or Washington, D.C.

No. MC 136277 (Sub-No. 3) (partial correction), filed December 19, 1975, published in the FEDERAL REGISTER issue of February 5, 1976, republished as corrected this issue. Applicant: PRIORITY FREIGHT SYSTEMS, INC., 3128 Massillon Road, P.O. Box 7098, Akron, Ohio 44396. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, tobacco, liquor, and those of unusual value); (4) between points in that part of North Carolina on and north of the line beginning at the Virginia-North Carolina state boundary line, thence along U.S. Highway 52 to Winston-Salem, thence along U.S. Highway 311 to junction U.S. Highway 64; thence along U.S. Highway 64 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Atlantic Ocean, on the one hand, and, on the other, points in that part of Pennsylvania on and west of a line beginning at the West Virginia-Pennsylvania state boundary line and U.S. Highway 119 and extending along U.S. Highway 119 to Greensburg, Pa., thence along Pennsylvania Highway 66 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 80-S (Pennsylvania Turnpike), thence along Interstate Highway 80-S to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 79, and thence along Interstate Highway 79 to Erie, Pennsylvania. The purpose of this partial republication is to correct the territorial description, in part (4) of this proceeding. The rest of the application remains the same.

No. MC 136301 (Sub-No. 3), filed Jan. 30, 1976. Applicant: MER-LOU TRANSPORTATION, INC., P.O. Box 247 (Hwy. 113 North), Millsboro, Del. 19966. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract*

carrier, by motor vehicle, over irregular routes, transporting: (1) *Pickled products*, in containers, from the plantsite located at Greenville, Miss., to points in the United States (except Alaska and Hawaii); and (2) *supplies and materials*, used in the processing and manufacturing of pickled products, from Chicago, Ill., to the plantsite located at or near Greenville, Miss., under contract with Vlastic Foods, Inc., restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich. or Jackson, Miss.

No. MC 136343 (Sub-No. 67), filed December 11, 1975. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products, building paper, paper and pulpwood combined with aluminum and copper foil and paper*, from the facilities of The St. Regis Paper Company, located at Attleboro, Mass., to points in Indiana, Illinois, Michigan, Kentucky, Virginia, North Carolina, South Carolina, and Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 136343 (Sub-No. 70) (Amendment), filed December 16, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as amended this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, accessories and materials used in the installation and sale thereof*, from the plant and warehouse sites of Abitibi Corporation at Lucas County, Ohio, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Oklahoma, and Texas.

NOTE.—The purpose of this republication is to include Oklahoma in the territorial description. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at the same time and on a consolidated record with similar applications filed by Dally Express, Inc., Ligon Specialized Haulers, G. G. Parsons Truck Co., R-W Service System, St. Louis Freight Lines, Sawyer Transport, and Shelton Truck Service at Washington, D.C.

No. MC 136375 (Sub-No. 11), filed January 15, 1976. Applicant: DONCO CARRIERS, INC., 641 North Meridian, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations, household and industrial cleaning products, brooms, brushes, mops, insect repellents, grooming aides, food products, clothes hangers, medicated sprays, and promotional materials* (except commodities in bulk), from

Great Bend, Kans., to points in the United States (except Alaska, Hawaii, and Kansas), restricted to the transportation of traffic originating at the facilities of The Fuller Brush Company, located at or near Great Bend, Kans.; and (2) *materials, supplies and machinery*, used or useful in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), from points in California, Georgia, Illinois, Michigan, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Washington, and Wisconsin, to Great Bend, Kans. restricted to the transportation of traffic destined to the facilities of The Fuller Brush Company, located at or near Great Bend, Kans., (1) and (2) above are under a continuing contract or contracts with The Fuller Brush Company.

NOTE.—Applicant holds common carrier authority in MC 138469 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Oklahoma City, Okla.

No. MC 136408 (Sub-No. 34), filed Dec. 22, 1975. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, polishing, and defoaming soaps and compounds, oils, paints, rust and paint removing compounds; and disinfectant and water treating compounds* (except in bulk, in tank vehicles), from Detroit, Mich., to Omaha, Nebr.; Wichita, Kans.; St. Louis, and Kansas City, Mo.; Duluth and Minneapolis, Minn.; Davenport, Iowa; Milwaukee, Wis.; Chicago, Ill.; Indianapolis and Fort Wayne, Ind.; Grand Rapids, Mich.; Cincinnati and Cleveland, Ohio, and Metuchen, N.J., restricted to a transportation service to be performed under a continuing contract or contracts with Oakite Products, Inc., of Berkeley Heights, N.J., and to the transportation of shipments from the facilities of Oakite Products, Inc., at Detroit, Mich., to the facilities of Oakite Products, Inc., in the cities named above.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 136888 (Sub-No. 6), filed January 19, 1976. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, Tex. 77080. Applicant's representative: Timothy Mashburn, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous and non-ferrous metals and alloys*, in bulk, in dump trailer equipment, between points in Texas, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 140228 sub 1 therefore dual operations may be involved. If a hearing is

deemed necessary, the applicant requests it be held at Houston or Austin, Tex.

No. MC 138328 (Sub-No. 28), filed January 28, 1976. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Jane L. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from points in Iowa, Missouri, Pennsylvania, and South Carolina to points in Idaho, Montana, Oregon, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 133233 and subs thereunder, thereof dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Boise, Idaho.

No. MC 138482 (Sub-No. 5), filed January 30, 1976. Applicant: SPACEMASTER TRUCKING CORP., Interstate 26 and Montague Overpass, Charleston Heights, S.C. 29405. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Display racks and stands, and display racks and stands containing hosiery*, (1) from Burlington, Concord and Creedmoor, N.C., to points in the United States (except Alaska and Hawaii) and (2) from San Bernardino, Calif., to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under contract with Kayser-Roth Hosiery Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Raleigh or Greensboro, N.C.

No. MC 138835 (Sub-No. 19), filed January 30, 1976. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 472, Harrisonburg, Va. 22801. Applicant's representative: Richard A. Mehley, 1000 Sixteenth Street NW, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Germantown and Red Hook, N.Y., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin, restricted to traffic moving from the plantsites and facilities of Orchard Hill Farms Inc. located at or near Red Hook and Germantown, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138882 (Sub-No. 10), filed Feb. 2, 1976. Applicant: WILEY SANDERS, INC., P.O. Box 161, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood and wood products*; and (2) *mate-*

rials, equipment, and supplies, used in the manufacture and sale of the commodities in (1) above, between points in Pike County, Ala., on the one hand, and, on the other, points in the United States in and east of Montana, Wyoming, Colorado, New Mexico (except Alabama), and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Montgomery or Birmingham, Ala.

No. MC 139110 (Sub-No. 6), filed January 22, 1976. Applicant: MINN CAL, INC., Box E, 104 3rd Avenue SW., Mandan, N. Dak. 58554. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bedding plant containers and plastic flower pots* for use by horticulturists, from the facilities of T. O. Plastics, Inc. located at or near Little Falls, Minn., to points in the United States in and west of Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, and South Dakota (except Alaska and Hawaii), under a continuing contract or contracts with T. O. Plastics, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 140409, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 139163 (Sub-No. 4), filed January 27, 1976. Applicant: ELECTRONIC RIGGERS OF FLORIDA, INC., 1256 LaQuinta Drive, Orlando, Fla. 32809. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies*, used in the manufacture, installation, or sale of such commodities, (a) between Arlington, Tex., on the one hand, and, on the other, points in New Mexico; and (b) between Hobbs, N. Mex., on the one hand, and, on the other, points in Texas on and west of U.S. Highway 277.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 139236 (Sub-No. 1), filed January 28, 1976. Applicant: M.O.R.T. ENTERPRISES, INC., 532 North Main Street, Gresham, Ore. 97030. Applicant's representative: Robert G. Gleason, 15 South Grady Way, Rm. 217, Renton, Wash. 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk in tank vehicles) and *new and used bottles*, between points in California, Minnesota, Oregon, Washington and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Ore. or Seattle, Wash.

No. MC 139973 (Sub-No. 5), filed January 28, 1976. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street,

P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and storage facilities of National Beef Packing Company, located at or near Liberal, Kans., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, West Virginia, and the District of Columbia; and (2) *meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk), from the plant site and storage facilities of Dugdale Packing Company, located at or near St. Joseph, Mo., to points in Maryland, New York, Ohio and Pennsylvania, restricted in (1) and (2) above to traffic originating at the named origins and destined to points in the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 138375 and subs thereunder, therefore dual operations may be involved. The authority issued in the first paragraph of MC 138375 and in MC 138375 (Subs 4 and 11) authorized the service sought herein. If the instant application is granted, J. H. Ware Trucking, Inc. will request the above contract carrier authority be cancelled. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Wichita, Kans.

No. MC 140484 (Sub-No. 17), filed Dec. 22, 1975. Applicant: LESTER COGINS TRUCKING, INC., P.O. Box 69, Fort Myers, Fla. 33902. Applicant's representative: Clayton Geer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware; chinaware; earthenware; porcelain; stoneware; plastic bowls, cups, dishes, or plates*, between Lake City and Jeannette, Pa., and Sebring, Ohio, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee and Texas.

NOTE.—Applicant holds contract carrier authority in MC 134443, Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa. or Tampa, Fla.

No. MC 140581 (Sub-No. 2) (Correction), filed January 6, 1976, published in the FEDERAL REGISTER issue of February 13, 1976, republished as corrected this issue. Applicant: TOMMY HAGWOOD, doing business as HAGWOOD ENTERPRISES, Route 1, Box 222-A, Trafford,

Ala. 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, in truckaway service, between points in Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, Montana, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Nebraska, Tennessee, Texas, and Washington. Restriction: The authority sought herein is restricted to the transportation of used automobiles originating at or destined to the facilities of Littleton Leasing & Investment Co., Inc., or moving for the account of said company.

NOTE.—The purpose of this republication is to correct the above restriction. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 140612 (Sub-No. 4), filed January 12, 1976. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive SE., P.O. Box 2011, Cedar Rapids, Iowa 52403. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, forest products, and wood products*, from points in Washington, to points in Iowa, Minnesota, Wisconsin, Illinois, Missouri, Nebraska, South Dakota, Indiana, Kentucky, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 138002 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cedar Rapids, Iowa or Hoquiam, Wash.

No. MC 140743 (Sub-No. 7), filed January 20, 1976. Applicant: GORSKI BULK TRANSPORT, INC., 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Applicant's representative: William B. Elmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* including alcoholic spirits and wines, in bulk, in tank vehicles, from Lawrenceburg, Ind., to the International Boundary line between the United States and Canada, located in Michigan, New York, North Dakota, and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., Washington, D.C., or New York, N.Y.

No. MC 140829 (Sub-No. 6), filed January 29, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except

hides and commodities in bulk), from Denver, Greeley, and Sterling, Colo., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in No. MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141071 (Sub-No. 2), filed January 19, 1976. Applicant: LARANETA TRUCKING COMPANY, INC., 870 West 9th Street, San Pedro, Calif. 90731. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pet food and canned tuna*, from Terminal Island, Calif., to points in Oregon and Washington, under a continuing contract or contracts with Star-Kist Foods, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 141196 (Sub-No. 1) (Amendment), filed December 22, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as amended this issue. Applicant: NELSON LENTZ, INC., 24 Dorothea St., Commack, N.Y. 11725. Applicant's representative: George C. Pezold, 120 Main St., Huntington, N.Y. 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New and used replacement and repair parts* for household appliances, between warehouse and service facilities utilized by General Electric Company, located at points in Newburgh, Orange County, N.Y., Nassau, Suffolk, Westchester Counties, N.Y., and New York, N.Y., North Caldwell, N.J., and Hartford and Bridgeport, Conn., under a continuing contract or contracts with General Electric Company.

NOTE.—The purpose of this republication is to broaden the scope of the requested authority. If a hearing is deemed necessary, the applicant requests it be held at New York City, N.Y.

No. MC 141441 (Sub-No. 2), filed January 19, 1976. Applicant: CROCKER TRUCK LINES, INC., N. 1410 Howe, Spokane, Wash. 99206. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trusses, beams, and girders* (metal concrete or combination thereof), and *concrete slabs*, (1) from points in Spokane County, Wash., on the one hand, and, on the other, points in Idaho County, points in Morrow, Umatilla, Union, Wallowa, and Baker Counties, Oreg., points in Montana on and west of a line coincident with Montana Highway 233 from the International Boundary line between the

United States and Canada to Havre, Mont., thence over U.S. Highway 87 to Arlington, Mont., thence over U.S. Highway 89 to the Montana-Wyoming Boundary line; and (2) from points in Missoula and Great Falls, Mont., to points in Idaho County, Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Spokane, Wash., Boise, Idaho, or Missoula, Mont.

No. MC 141469, filed Nov. 3, 1975. Applicant: P-T TRUCK LINE, INC., 3036 Chartres Street, New Orleans, La. 70117. Applicant's representative: Patrick T. Brown, 1420 Focis Street, Metairie, La. 70005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except Classes A and B explosives), between points in the New Orleans, La., Commercial Zone as defined by the Commission, restricted to traffic having a prior or subsequent movement by water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 141538 (Sub-No. 1) (Correction), filed December 12, 1975, published in the FEDERAL REGISTER issue of January 22, 1976, as MC 136242 (Sub-No. 10), republished as corrected this issue. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, Nebr. 68979. Applicant's representative: Arlyn L. Westergren, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Grain bins, metal buildings, grain handling equipment, and materials and equipment, used in the erection of grain bins and metal buildings, from the plantsite and facilities of Hymark Industries, Inc., at or near Henderson, Nebr., to points in the United States (except Alaska and Hawaii); and (2) augers and grain handling equipment, from Clay Center, Kans., to the facilities of Hymark Industries, at or near Henderson, Nebr., under contract with Hymark Industries, Inc.

NOTE.—The purpose of this republication is to change the docket number MC 136246 (Sub-No. 10) to MC 141538 (Sub-No. 1). If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 141545, filed Nov. 21, 1975. Applicant: ROBERT R. FEDDERSEN, 1903 Big Oak Circle, Northbrook, Ill. 60062. Applicant's representative: Robert A. Sullivan, 22375 Haggerty Road, P.O. Box 400, Northville Mich. 48167. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Canned and bottled juices, from the plantsite and facilities of Keystone Foods, Inc., located at or near North East, Pa., to points in Illinois, Maine, Massachusetts, Michigan, Missouri, New Jersey, New York, and Ohio, under contract with Home Service Sales, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 141593 (Sub-No. 1) (Correction), filed December 10, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as corrected this issue. Applicant: HIDEBOUND TRANSPORTATION, INC., 2009 Kishwaukee, Rockford, Ill. 61101. Applicant's representative: Donald B. Levine, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Hides and materials, equipment and supplies used in the proceeding of hides (except commodities in bulk), between Macomb and Rockford, Ill., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Louisiana; Crete, Nebr., and points in California and Texas, under a continuing contract or contracts with Hidebound, Inc., and Rockford Hide Co.

NOTE.—The purpose of this republication is to correct the territorial description. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 141607 (Sub-No. 1) (Correction), filed December 22, 1975, published in the FEDERAL REGISTER issue of February 5, 1976, republished as corrected this issue. Applicant: GEORGE ST. LAURENT, 475 Grand Avenue, Pawtucket, R.I. 02861. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, Mass. 02341. Authority sought to operate as a contract carrier by motor vehicle, over irregular routes, transporting: Steel and aluminum products, between Cumberland, R.I. Norwood, Worcester and Woburn, Mass., Hartford and New Haven, Conn. Albany, N.Y., Harrisburg, Pa. and South Portland, Maine, restricted to traffic moving between plants and/or fabricators of American Steel and Aluminum Corporation, under a continuing contract or contracts with American Steel and Aluminum Corporation in Norwood, Mass.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 141612 (Sub-No. 2), filed January 19, 1976. Applicant: K & B TRANSPORT, INC., Route 5, Newark, Ohio 43055. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 930, Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Dog food, in bags, from Muscatine, Iowa to the facilities of Landmark, Inc., located in Ohio, under a continuing contract with Landmark, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 141626 (Sub-No. 1) (Correction), filed December 29, 1975, published in the FEDERAL REGISTER issue of February 5, 1976, and republished, as corrected, this issue. Applicant: PIPE TRANSPORT CO., INC., 81 County Line Road,

Somerville, N.J. 08876. Applicant's representative: Stanley J. Perzanowski, 5 Colt Street, Paterson, N.J. 07505. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Concrete pipe and related items, from Somerville, N.J., to points in Pennsylvania, Maryland, New York, the District of Columbia and New Jersey, under contract with Mancrete Sales, Corporation.

NOTE.—The purpose of this republication is to state that the correct number of this application is No. MC 141626 (Sub-No. 1) in lieu of No. MC 141659. If a hearing is deemed necessary, applicant requests it be held at Paterson or Newark, N.J. or New York, N.Y.

No. MC 141631 (Sub-No. 2), filed January 28, 1976. Applicant: ADAMS VAN SERVICE, INC., P.O. BOX 1771, 1619 Noblestown Road, Pittsburgh, Pa. 15219. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by department stores, the business of which is the sale of general commodities, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Ohio on and east of Ohio Highway 83, points in West Virginia on and north of U.S. Highway 33, and Garrett and Allegany Counties, Md., restricted to shipments moving to or from retail customers of such department store.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 141663 (Special notice), filed January 5, 1976. Applicant: ROBERT E. MOORE, doing business as MOORE TRUCKING COMPANY, Star Route, Yanceyville, N.C. 27379. Applicant's representative: Sharon T. Rayle, 611 Summit Avenue, P.O. Box 6188, Greensboro, N.C. 27405.

NOTE.—Notice of this application was erroneously published in the Federal Register issue of February 20, 1976. It is the Commission's intention to renotice the request for authority in the near future and protestants are requested to withhold the filing of protests until such time as a proper notice of the requested authority may be published.

No. MC 141696, filed January 9, 1976. Applicant: SHORTY'S WRECKER SERVICE, INC., 1003 Jefferson Avenue, Midland, Mich. 48640. Applicant's representative: Robert A. Sullivan, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wrecked, disabled, repossessed or replacement motor vehicles, trailers (except mobile homes), and semi-trailers, by tow car or by tow truck, between points in Arenac, Bay, Clare, Clinton, Genesee, Gladwin, Gratiot, Huron, Isabella, Lapeer, Mecosta, Midland, Montcalm, Ogemaw, Osceola, Roscommon, Saginaw, Shiawassee, and Tuscola Counties, Mich., on the one hand, and, on the other, points in Alabama, Georgia,

Illinois, Indiana, Iowa, Kentucky, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit or Lansing, Mich. or Chicago, Ill.

No. MC 141712, filed January 15, 1976. Applicant: PARTS CARRIERS, INC., 4131 South 89th Street, Omaha, Nebr. 68127. Applicant's representative: Einar Viren, 200 First West Side Bank Bldg., 222 South 72nd Street, Omaha, Nebr. 68114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts*, from the plant sites and warehouses of: (1) AC Spark Plug Division, General Motors Corporation located at Flint, Mich.; (2) Motorcraft, Ford Motors Parts located at Dearborn, Mich.; (3) Motorcraft Ford Motor Parts located at Detroit, Mich.; (4) AP Parts Company located at Toledo, Ohio; (5) Fel Pro located at Skokie, Ill.; (6) Nieoff Company located at Chicago, Ill.; (7) Walker Manufacturing Co. located at Seward, Nebr.; (8) Monroe Auto Equipment located at Cozad, Nebr.; (9) R.P.W. Inc. of Nebraska located at Omaha, Nebr.; (10) Carl A. Anderson Co. of Nebraska located at Omaha, Nebr.; (11) Wagner Electric Corp., located at St. Louis, Mo.; (12) Tung Sol Sales Corp. located at Melrose Park, Ill.; (13) Briggs & Stratton Corp., located at Milwaukee, Wis.; (14) Tecumseh Products Co., located at Grafton, Wis.; (15) Kohler Company located at Kohler, Wis.; (16) Carl A. Anderson of Minnesota located at St. Paul, Minn.; (17) Carl A. Anderson Co., located at Des Moines, Iowa; (18) Presto-Lite Batteries located at Manchester, Iowa; (19) Anco located at Gary, Ind.; and (20) Delco Batteries located at Anderson, Ind., to points in Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, under a continuing contract, or contracts, with R.P.W. Inc., of Nebraska; R.P.W. Inc. of Iowa; Carl A. Anderson, Inc., of Minnesota; Carl A. Anderson Co. of Nebraska; and Carl A. Anderson Co., an Iowa Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Omaha, Nebr.

No. MC 141713, filed January 19, 1976. Applicant: VINCE VENUTI, doing business as VINCE'S SERVICE CENTER, 404 Broad Street, Leland, Miss. 38756. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used commercial automotive vehicles, automobiles, trucks, tractors, trailers and buses*, in secondary movements, in driveway and truck-away service, between points in Alabama, Arkansas, Louisiana, Mississippi and Tennessee on the one hand, and on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Greenville or Jackson, Miss.

No. MC 141718, filed January 19, 1976. Applicant: E. W. MERRITT, Rt. 2, Box 224, Canal Road, Brunswick, Ga. 31520. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Agricultural insecticides*, dry, poisonous solid, Class B (except in bulk), in TOFC trailers, from the plantsite of Thiokol Corp., located at or near Woodbine (Camden County), Ga., to the S.C.L.R.R. ramp at Brunswick, Ga., having an immediate subsequent movement by rail; and (B) *ammonium nitrate* in bags, *nitro carbo nitrate* in bags, and *high explosives*, in cases, in TOFC trailers, from the S.C.L.R.R. ramp at Brunswick, Ga., to Blue Star Terminal, at Kings Bay, Ga., having an immediate prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla.

No. MC 141720, filed January 28, 1976. Applicant: MORRISON TRUCKING COMPANY, P.O. Box 3145, Venice, Fla. 33595. Applicant's representative: Felix A. Johnston, Jr., 547 North Monroe Street, Tallahassee, Fla. 32301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate and phosphate products*, from points in DeSoto, Manatee, and Hardee Counties, Fla., to Port Manatee (Manatee County), Fla., restricted to shipments having a subsequent by movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Venice or Bradenton, Fla.

No. MC 141726, filed January 26, 1976. Applicant: NATIONAL DISTRIBUTORS, INC., Post Office Box 62, Sellersburg, Ind. 47172. Applicant's representative: William J. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are distributed by wholesale food business houses or institutional suppliers (except in bulk), from points in Merced County, Calif., to points on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under a continuing contract or contracts with Nugget Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 141726 (Sub-No. 1), filed January 26, 1976. Applicant: NATIONAL DISTRIBUTORS, INC., Post Office Box 62, Sellersburg, Ind. 47172. Applicant's representative: William J. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transport-

ing: *Such commodities* as are distributed by wholesale food business houses or institutional suppliers (except in bulk), from points in Sutter County, Calif., to points on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under a continuing contract or contracts with Nugget Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 141726 (Sub-No. 2), filed January 28, 1976. Applicant: NATIONAL DISTRIBUTORS, INC., Post Office Box 62, Sellersburg, Ind. 47172. Applicant's representative: William J. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are distributed by wholesale food business houses or institutional suppliers (except in bulk), from points in Marion County, Oreg., to points on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under a continuing contract or contracts with Nugget Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 141736, filed January 20, 1976. Applicant: JAMES A. JANA, doing business as JANA CARTAGE COMPANY, 4809 Woodman Avenue, Ashtabula, Ohio 44004. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, Ohio 44212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment and salt), between points in that part of Ohio bound by Lake Erie on the north, Ohio-Pennsylvania Boundary line on the east, Ohio Highway 305 on the south, and Ohio Highway 44 on the west, including points on Ohio Highways 305 and 44.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Columbus, Ohio or Washington, D.C.

No. MC 141740, filed January 28, 1976. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, Ind. 46012. Applicant's representative: Donald W. Smith, Suite 2465-One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical components*, from the plantsite of Square D Company located at or near Florence, Ky. and Peru, Ind. to facilities of Square D Company located at Los Angeles, Calif. under a continuing contract or contracts with Square D Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind. or Louisville, Ky.

No. MC 141751, filed January 28, 1976. Applicant: M. P. C. TRUCKING, INC., Cold Stream Road, Kimberton, Pa. 19442.

Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and coating materials, and paints, and materials, supplies, and equipment*, used or useful in the manufacture or transportation of roofing and coating materials, and paint, except in bulk in tank vehicles, between Kimberton, Pa., Troy, N.Y., and Rock Hill, S.C., on the one hand, and, on the other, points in the United States in and east of Ohio, Kentucky, Tennessee, and Alabama, under a continuing contract, or contracts, with Monsey Products Co., Inc., Kimberton, Pa. and its affiliate, American Seal Manufacturing Co., Inc., Troy, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 141752, filed January 29, 1976. Applicant: ROBERTO QUINTANILLA, JR., doing business as TITAN TRANSPORT SYSTEM, Calle 5 de Febrero No. 2945, Nuevo Laredo, Tampalipas, Mexico. Applicant's representative: Bernard F. Flynn, Jr., York-Flynn Building, Dover, N.J. 07801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in the Republic of Mexico, on the one hand, and, on the other, Laredo, Brownsville, Hidalgo, and Eagle Pass, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Laredo or San Antonio, Tex.

No. MC 141753, filed Jan. 29, 1976. Applicant: G. P. SULLIVAN COMPANY, a Corporation, 1808 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances*, from Chicago, Ill., and its Commercial Zone, to points in Kenosha, Walworth and Racine Counties, Wis., and points in Lake, Porter, LaPorte, Starke, Pulaski, Newton and Jasper Counties, Ind.

NOTE.—Applicant holds contract carrier authority in MC 136066 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lansing or Detroit, Mich.

No. MC 141769, filed January 29, 1976. Applicant: TACONIC MATERIALS, INC., 2000 Maple Hill St., Yorktown Heights, N.Y. 10598. Applicant's representative: William J. Angello, 120 Main St., P.O. Box Z, Huntington, N.Y. 11743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt and mixtures of rock salt and calcium chloride*, from Nahwah, N.J., to points

in Rockland, Westchester, Orange, Putnam, Dutchess, Ulster, Delaware, Sullivan, and Greene Counties, N.Y., and New York City, N.Y., and Fairfield, Litchfield, and New Haven Counties, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York City, N.Y.

No. MC 141770, filed January 29, 1976. Applicant: GEORGE RITZLER, Rt. No. 2, Bloomville, Ohio 44818. Applicant's representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain and animal feed*, from Fostoria, Bellvue, Marion, Delphos, and Huron, Ohio and Logansport, Frankfurt, and Lafayette, Ind., to points in New York, Pennsylvania, and West Virginia, under a continuing contract or contracts with Pillsbury Co., Inc., located in Buffalo, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Buffalo, N.Y.

PASSENGER APPLICATIONS

No. MC 115116 (Sub-No. 30) (Correction), filed December 22, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, as MC 115116 (Sub-No. 30), re-published as corrected this issue. Applicant: SUBURBAN TRANSIT CORP., 750 Somerset Street, New Brunswick, N.J. 08901. Applicant's representative: Michael J. Marzano, 17 Academy Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, between points in East Brunswick, N.J., as follows: From junction New Jersey Highway 18 and access roads to New Jersey Turnpike in East Brunswick, N.J., over New Jersey Highway 18 to its junction with Old Bridge Turnpike, thence over Old Bridge Turnpike to the East Brunswick Transportation and Commerce Center (formerly called Commuter Bus Service Park and Ride Facility) at the junction New Jersey Highway 18 and Tices Lane (also continuing over Old Bridge Turnpike to its junction with Tices Lanes, thence over Tices Lane to said East Brunswick Transportation and Commerce Center), and return from said East Brunswick Transportation and Commerce Center over New Jersey Highway 18 to its junction with access roads to the New Jersey Turnpike in East Brunswick, N.J. (also returning from said East Brunswick Transportation and Commerce Center over Tices Lane to its junction with New Jersey Highway 18 or over Old Bridge Turnpike to Tices Lane, and over Tices Lane to New Jersey Highway 18, thence over New Jersey Highway 18 to its junction with access roads to New Jersey Turnpike, in East Brunswick, N.J.), serving the junction of New Jersey Highway 18 and access roads to New Jersey Turnpike, and the said East Brunswick Transportation and Commerce Center, only.

NOTE.—The purpose of this republican is to change docket number MC 115116 (Sub-No. 30) in lieu of MC 115116 (Sub-No. 30) which was previously in error. Applicant proposes to provide service to and from New York, N.Y., by joining the proposed routes with its existing authorized routes. If a hearing is deemed necessary, the applicant requests it be held at East Brunswick or Newark, N.J.

No. MC 136606 (Sub-No. 1), filed January 21, 1976. Applicant: RICHMOND COACH LINES, LTD., 1170 No. 5 Road, Richmond, B.C. V7A 4E7 Canada. Applicant's representative: Bob Chester (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter and special operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada located in Washington and extending to points in Washington, Oregon, California, Nevada, and Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 141741, filed January 22, 1976. Applicant: RAILROAD LIMOUSINE SERVICE, INC., 642 Western Avenue, Toledo, Ohio 43609. Applicant's representative: James R. Berendsen, P.O. Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, who are employees of the Penn Central Transportation Company, and their personal belongings, between Penn Central's right of way and yards located in Indiana, Michigan, and Ohio, under a continuing contract or contracts with Penn Central Transportation Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Toledo, Ohio.

BROKER APPLICATIONS

No. MC 130234 (Sub-No. 1), filed January 26, 1976. Applicant: BLUEFIELD AUTOMOBILE CLUB, 622 Commerce Street, P.O. Box 90, Bluefield, W. Va. 24701. Applicant's representative: A. B. Norconk, Jr., W. Va. Hotel, Apt. 607, Bluefield, W. Va. 24701. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Bluefield, W. Va., to sell or offer to sell the transportation of *Groups passengers and their personal baggage* on guided tours, beginning and ending at points in McDowell, Mercer, Monroe, Summers and Wyoming Counties, W. Va., and points in Bland, Buchanan, Dickenson, Giles, Lee, Russell, Scott, Tazewell and Wise Counties, Va. and cities within said Virginia Counties, and extending to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Bluefield or Charleston, W. Va.

No. MC 130358, filed January 9, 1976. Applicant: MARCON TOURS, INC., 406

David Whitney Building, Detroit, Mich. 48226. Applicant's representative: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005. Authority sought to engage in operations, in interstate or foreign commerce, as a *broker* at Detroit, Mich., to sell or offer to sell the transportation of *passengers and their baggage*, in charter, and special operations, by motor common carrier, between points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 130361, filed December 31, 1975. Applicant: WILLIAM JOHN SIEFKE, doing business as GREAT WESTERN TRAVEL OF SOUTHERN CALIFORNIA, 3820 East Colorado Boulevard, Pasadena, Calif. 91107. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Pasadena, Calif., to sell or offer to sell the transportation of *individual passengers and groups of passengers, and their baggage*, in special and charter operations, in sightseeing and pleasure tours, by motor carriers, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

FREIGHT FORWARDER APPLICATIONS

No. FF-363 (Sub-No. 1), filed January 23, 1976. Applicant: HC & D FORWARDERS INTERNATIONAL, INC., 1849 Old Bayshore Highway, Burlingame, Calif. 94010. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water and express, in the transportation of (a) *Used household goods and unaccompanied baggage*, between points in the United States including Alaska and Hawaii; (b) *used automobiles*, between points in the United States including Alaska and Hawaii, restricted to the transportation of import and export traffic; and (c) *used automobiles*, between points in Hawaii, on the one hand, and, on the other, points in the United States including Hawaii and Alaska, restricted against the transportation of shipments to or from the facilities of automobile dealers.

NOTE.—The purpose of this application is to add Alaska to applicant's existing authority. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. FF 413 (Sub-No. 1), filed January 28, 1976. Applicant: OCEAN AIR INTERNATIONAL, INC., R.D. No. 1, Burgettstown, Pa. 15021. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, interstate commerce as a *freight forwarder*, through

use of the facilities of common carriers by rail, motor, water and express, in the transportation of (a) *Used household goods and unaccompanied baggage*, (b) *used automobiles*, between points in the United States, including Hawaii and Alaska, restricted in (b) to the transportation of export and import traffic.

NOTE.—The purpose of this application is to add Alaska to applicant's present authority. If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. FF 469 (Sub-No. 1), filed January 13, 1976. Applicant: IVORY FORWARDING, INC., 8035 Woodward Ave., Detroit, Mich. 48203. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water and express, in the transportation of (a) *Used household goods and unaccompanied baggage*; and (b) *Used automobiles*, between points in the United States, including Hawaii and Alaska, restricted in (b) to the transportation of import-export traffic.

NOTE.—The purpose of this application is to add Alaska to applicant's requested authority now pending in Docket FF-469. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6137 Filed 3-4-76; 8:45 am]

[Notice 196]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MARCH 4, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before March 24, 1976. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76185. By order entered February 26, 1976, the Motor Carrier Board approved the transfer to Fife

Moving & Storage Co., Houston, Pennsylvania, of the operating rights set forth in Certificate No. MC-80097, issued September 8, 1967, to Herbert E. Marshall, doing business as Marshall's Moving and Storage, California, Pennsylvania, authorizing the transportation of household goods between points in Washington, Fayette, and Westmoreland Counties, Pa., on the one hand, and, on the other, points in Ohio, West Virginia, and Michigan. Jerome Solomon, 3131 United States Steel Bldg., Pittsburgh, Pa. 15219, attorney for applicant.

No. MC-FC-76318 by order of February 24, 1976, the Motor Carrier Board approved the transfer to Richard G. Hart, Swartz Creek, Michigan, of Certificate No. MC-112828 and MC-112828 (Sub-No. 1), issued January 19, 1961, and March 27, 1962, respectively, to Lynn Gantz, St. Louis Michigan, authorizing the transportation of farm implements from Coldwater, Ohio and LaPorte Indiana, to specified points in the lower peninsula of Michigan. Richard G. Hart, 5232 S. Morrish Rd., Swartz Creek, Michigan, 48473, representative for applicants.

No. MC-FC-76328. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to Francis Truck Line, Inc., Wilsey, Kans., of the operating rights set forth in Certificate No. MC-1806, issued January 15, 1953, to Jay Francis, Wilsey, Kans., authorizing the transportation of farm products, household goods, livestock, feed, seed, building materials, agricultural commodities, and general commodities, with specified exceptions, over specified routes, from and to specified points in Kansas and Missouri. Darrel W. Bryant, 214 West Main, Council Grove, Kans. 66846, attorney for applicants.

No. MC-FC-76334. By order of February 24, 1976 the Motor Carrier Board approved the transfer to Trans Continental Carriers, a Corporation, Downey, California, of Permit No. MC-139485 (Sub-No. 1), issued September 30, 1975, to Charles E. Richardson, doing business as C. E. Richardson Transportation, Covina, California, authorizing the transportation of paint and paint additives, in containers, from Lakewood, Ohio to San Jose and Los Angeles, California. David P. Christianson, 606 South Olive, Suite 825, Los Angeles, California 90014, attorney for applicants.

No. MC-FC-76356. By order of February 24, 1976, the Motor Carrier Board approved the transfer to F. J. Carey, Jr. Trans., Inc., Brockton, Mass., of Certificate No. MC-140927 (Sub-No. 2), issued December 22, 1975, to Frederick J. Carey, Jr., D/B/A F. J. Carey, Jr. Trans., Brockton, Mass., authorizing the transportation of scrap metals, from Everett, Mass., to Jersey City, N.J. Frank J. Weiner, 15 Court Square, Boston, Mass. 02108, attorney for applicants.

No. MC-FC-76373. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to Livingston Transportation Limited, a corpora-

tion, Tillsonburg, Ontario, Canada, of the operating rights set forth in Certificates Nos. MC-112991 and MC-112991 (Sub-No. 3), issued by the Commission May 7, 1957 and February 23, 1962, respectively, to Merrifield Transport Company, Limited, a corporation, Windsor, Ontario, Canada, authorizing the transportation of general commodities, between the plant site of Kelsey-Hayes Company, Romulus Township, Wayne County, Mich. and points in the Detroit Commercial Zone, as defined by the Commission, on the one hand, and, on the other, the port of entry on the International Boundary Line between the United States and Canada located at Detroit, Mich., Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226, attorney for applicants.

No. MC-FC-76376. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to Illinois Industrial Transportation, Inc., Oak Brook, Ill., of the operating rights set forth in Certificate of Registration No. MC-121488, issued October 20, 1964, to Carta-Back, Inc. (Leonard M. Spira, Assignee for Benefit of Creditors), Chicago, Ill., evidencing a right to engage in transportation, in interstate or foreign commerce, of general freight, to and from points in Illinois. James R. Madler, 1255 N. Sandburg Terr., Chicago, Ill. 60610, attorney for applicants.

No. MC-FC-76391. By order of February 26, 1976 the Motor Carrier Board approved the transfer to Tracey's Service Station, Inc., Lincoln, Mass., of the operating rights in Certificate No. MC-100458 issued May 16, 1967 to Fries Towing, Inc., Framingham, Mass., authorizing the transportation of disabled motor vehicles between Boston, Mass. and points within 50 miles thereof, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island. Edward R. Lembo, 15 Sanger St., Box 104, Framingham, Mass. 01701, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-6269 Filed 3-3-76; 8:45 am]

[Notice 24]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 27, 1976.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service

has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

No. MC 30844 (Sub-No. 562TA), filed February 17, 1976. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between Crozet, Va. and Russellville, Ark., restricted to shipments originating at or destined to facilities of Morton Frozen Foods—Division of IIT Continental Baking Company, Inc. at the above named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: IIT Continental Baking Company, Inc., P.O. Box 731, Rye, N.Y. 10580. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 57315 (Sub-No. 25TA), filed February 17, 1976. Applicant: TRI-STATE TRANSPORT, INC., 91 Heard St., Chelsea, Mass. 02150. Applicant's representative: Frank J. Weiner, 15 Court Sq., Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Southborough, Mass., to points in Maine, New Hampshire, and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hendrie's Refrigerated Storage Center, Inc., Harvest Lane, Southborough, Mass. 01772. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., Boston, Mass. 02114.

No. MC 59570 (Sub No. 40TA), filed February 19, 1976. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Rita Tripodi (same address as applicant). Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Reclaimed dust*, in bulk, From Ledyard, Conn., to Bethlehem, Conshohocken, and Windgap, Pa.; Glen Falls, N.Y.; Clifton and Pinewald, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): New Jersey Pulverizing Co., 390 N. Broadway, Jericho, N.Y. 11753. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 84687 (Sub-No. 3TA), filed February 10, 1976. Applicant: VETERANS TRUCK LINE, INC., P.O. Box 218, Bristol, Wis. 53104. Applicant's representative: Steve Enich, 1225 W. Mitchell St., Milwaukee, Wis. 53204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), between Chicago, Ill. and its commercial zone, on the one hand and to all points in the counties of Dane, Dodge, Washington, Ozaukee, Fond du Lac, Winnebago, Calumet, Sheboygan, Manitowoc, Brown, Oconto, Door, Kewaunee, Marinette, Outagamie of Wis. on the other hand, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 18 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protest to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 133 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 99213 (Sub-No. 17TA), filed February 18, 1976. Applicant: VIRGINIA FREIGHT LINES, P.O. Box 327, North Main Street, Kilmarnock, Va. 22482. Applicant's representative: J. S. Venable, P.O. Box 237, Kilmarnock, Va. 22482. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish solubles*, in bulk, in tank vehicles, from Cape Charles and Norfolk, Va., to points in Delaware, Maryland, New York, North Carolina, Pennsylvania and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Zapata Haynie Corporation, Thomas J. Crowell, Operations Manager, Box 175, Reedville, Va. 22539. Send protests to: District Supervisor, Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, Rm. 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 107002 (Sub-No. 480TA), filed February 12, 1976. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 W., Jackson, Miss. 39205. Applicant's representative: Edward M. Regan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic*

pellets, in bulk, in tank vehicles, from Brownsville, Tenn. to Hazlehurst, Miss., Sycamore, Ill., Tarboro, N.C., and Miami, Fla., for 180 days. Supporting shipper: Tehnn Apex Company, 505 Central Avenue, Pawtucket, R.I. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107295 (Sub-No. 802TA), filed February 18, 1976. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Richard D. Vollmer (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal, plastic, vinyl, or fiberglass building parts; structural steel; doors; windows; and door or window frames*, from Clinton, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, Wisconsin, and Bossier City, La. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Thomas E. Elroy, Jr., Vice President, McElroy Metal Mill, Inc., P.O. Box 1148, Shreveport, La. 71163. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62605.

No. MC 107403 (Sub-No. 962TA), filed February 17, 1976. Applicant: MALLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry caustic soda*, in bulk, in pressure trailers, from the plant site of PPG Industries, Inc. at Natrium, W. Va., to points in Vermont, Maine, New Hampshire, Massachusetts, Connecticut and Rhode Island, for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 1018TA), filed February 18, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: Earl Check (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Chloro-Aceto-Nitrile*, in a Toluene solution, in bulk, in tank vehicles, and (2) *toluene*, in bulk, in tank vehicles (1) from Boulder, Colo., to Waltham, Mass.; and (2) from Waltham, Mass., to Boulder, Colo., for 180 days. Applicant also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arapahoe Chemical Company, 2801 E. Colfax Avenue, Denver, Colo. 80206. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107515 (Sub-No. 999TA), filed February 12, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Rd., SE, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquor*, in bulk, in dismountable containers, from Port of West Palm Beach, Fla., to Scobeyville, N.J.; and (2) *Empty dismountable containers*, from Scobeyville, N.J. to Port West Palm Beach, Fla., restricted against the transportation of commodities which because of size and weight, require the use of special equipment, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: "21" Brands, Inc., 75 Rockefeller Plaza, New York, N.Y. 10019. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 5461, Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 1000TA), filed February 19, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Rd. SE., Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Carpet and tufted textile products*, from Ringgold, Ga., to Points in Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sweetwater Carpet Corp., Ringgold, Ga. 30376. Send protests to: Mr. William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 109584 (Sub-No. 165TA), filed February 17, 1976. Applicant: ARIZONA-PACIFIC TANK LINES, P.O. Box 7240, 3980 Quebec Street, Denver, Colo. 80207. Applicant's representative: Don Bryce (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chocolate*, in bulk, in tank vehicles, from San Mateo County, Calif., to Dallas and Ft. Worth, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Guittard Chocolate Co., P.O. Box 4308 (10 Guittard Road), Burlingame, Calif. 94010. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 1961 Stout Street, 2022 Federal Building, Denver, Colo. 80202.

No. MC 110525 (Sub-No. 1146TA), filed February 20, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, 520 E. Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor ve-

hicle, over irregular routes, transporting: *Titanium dioxide*, in bulk, in tank vehicles, from Savannah, Ga., to Moss Point, Miss., for 180 days. Supporting shipper(s): American Cyanamid Company, Bound Brook, N.J. 08805. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 110988 (Sub-No. 331TA), filed February 12, 1976. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hog mucosa*, in bulk, from points in the United States (except Alaska and Hawaii) west of U.S. Highway 65 to the facilities of Minnesota Mining & Manufacturing Company at or near Cordova, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Minnesota Mining & Manufacturing Company, Transportation Dept. 224-12 3M Center, St. Paul, Minn. 55101. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 133 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 111729 (Sub-No. 699TA), filed February 9, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hensch (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Laboratory specimens*, between Las Cruces, N. Mex., and El Paso, Tex., restricted to the transportation of traffic having an immediately prior or subsequent movement by air, for 180 days. Supporting shipper(s): Reference Laboratory, 1011 Rancho Conejo Boulevard, Newbury Park, Calif. 91320. Send protests to: Anthony D. Gialmo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 611TA), filed February 18, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hensch (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Business machines, electronic components, data processing machinery, and related parts, materials, and supplies*, restricted against the transportation of packages or articles weighing in excess of 125 pounds in the aggregate from one consignor to one consignee on any one day, between Holland, Ohio, on the one hand, and, on the other, points in Arkansas, Maine, and New Hampshire, for 180 days. Supporting shipper(s): Burroughs Corporation, P.O. Box 217, Holland, Ohio 43528. Send protests to: Anthony D. Gialmo, District Supervisor, Interstate Commerce Com-

mission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113678 (Sub-No. 622TA), filed February 12, 1976. Applicant: CURTIS, INC., P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: David L. Metzler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Columbia Foods, Inc., Walla Walla County, Wash., to Los Angeles, San Francisco, Oakland, San Jose, San Leandro, and Richmond, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Foods, Inc., P.O. Box 926, Pasco, Wash. 99301. Send protests to: District Supervisor, Herbert C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114194 (Sub-No. 183TA), filed February 17, 1976. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: A. Bruce Fraser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oils, Cooking, Vegetable*, in bulk, in tank vehicles, equipped for metered delivery, from St. Louis, Mo., to Alton, Ill., Anna, Ill., Evansville, Ind. and Owensboro, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Alan S. Geisler, Vice President, Commercial Pan Coating Corporation, 150 Grant Street, Carlstadt, N.J. 07072. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 114896 (Sub-No. 34TA), filed February 19, 1976. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Rd., New Hyde Park, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reclaimed or waste metals, metal sludge, and by-products*, from electroplating processes, from Lee's Summit, Mo., to Staten Island, N.Y., under a continuing contract or contracts with Western Electric Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Electric Company, Inc., 777 North Blue Parkway, Lee's Summit, Mo. 64063. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 114897 (Sub-No. 119TA), filed February 13, 1976. Applicant: WHIT-

FIELD TANK LINES, INC., P.O. Box 7676, Phoenix, Ariz. 85011. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, (1) from Morenci, Ajo and Hayden, Ariz., and (2) from Hurley, N. Mex., to points in Saguache County, Colo., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lyle Blanton of Hereford, Inc., P.O. Box 686, Center, Colo. 81125. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 115730 (Sub-No. 10 TA), filed February 11, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago, Ill. and its commercial zone and from the plantsite and facilities of Quality Processing Company, Bensenville, Ill. to the plantsite and facilities of Reinke Manufacturing Company, Deshler, Nebr. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Quality Processing Company, 520 Thomas Driver, Bensenville, Ill. 70106. Reinke Manufacturing Company, Deshler, Nebr. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 116628 (Sub-No. 19 TA), filed February 13, 1976. Applicant: SUBURBAN TRANSFER SERVICE, INC., P.O. Box 168, Rutherford, N.J. 07070. Applicant's representative: William P. Sullivan, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores and materials and supplies used in the operation of such stores*, (1) from Kalamazoo, Mich., to the stores or warehouse utilized by Lord & Taylor located in Cook, DuPage and Lake Counties, Ill., and at or near Carlstadt, N.J.; and (2) from Newport, Ark., to the stores or warehouse utilized by Lord & Taylor in Dallas and Harris Counties, Tex., points in Fulton, and DeKalb Counties, Ga., at or near Falls Church, Va., in the District of Columbia, and at or near Carlstadt, N.J., limited to service to be performed under a continuing contract or contracts with Lord & Taylor of New York, N.Y., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lord & Taylor, Fifth Avenue, New York, N.Y. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 118159 (Sub-No. 167TA), filed February 18, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mixed shipments with cleaning, bleaching, washing and scouring compounds (except in bulk), from Houston, Tex., to points in Arkansas, Louisiana, and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Company, 7901 Oakport Street, Oakland, Calif. 94621. Send protests to: Joe Green, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Bldg., 215 NW. 3rd Street, Oklahoma City, Okla. 73102.

No. MC 118159 (Sub-No. 168 TA), filed February 9, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, in rolls and/or cartons, *adhesives*, and *in-process carpeting*, from Libertyville, Ill., to points in Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, Florida, Georgia, North Carolina, and South Carolina, for 180 days. Supporting shipper: Ozite Corporation, 1755 Butterfield Road, Libertyville, Ill. 60048. Send protests to: Joe Green, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Bldg., 215 N.W. 3rd Street, Oklahoma City, Okla. 73102.

No. MC 119399 (Sub-No. 55TA), filed February 17, 1976. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: David L. Sifton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Omaha, Nebr., to West Plains, Mo., for 180 days. Supporting shipper: West Plains Distributing Co., Inc., 134 North Howell, West Plains, Mo. 65775. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 126070 (Sub-No. 3TA), filed February 18, 1976. Applicant: BERNARD J. HEMMINGER doing business as QUICK VAN LINES, 1801 Griswold Avenue, Sterling, Ill. 61081. Applicant's representative: Robert T. Lawley, 300 Reich Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home appliances*, from Ripon, Wis., to points in Illinois

and Iowa, under contract with Hardware Products Company, for 180 days. Supporting shipper(s): Hardware Products Company, R. J. Van DeVelde, President, 210 Locust Street, Sterling, Ill. 61081. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 127840 (Sub No. 45TA), filed February 17, 1976. Applicant: MONTGOMERY TANK LINES, INC., 17730 Chicago Ave., P.O. Box 382, Lansing, Ill. 60438. Applicant's representative: William H. Towle, 180 N. LaSalle, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hog mucosa*, in bulk, from Purcellville, Va., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cohel-fred Laboratories, Inc., Erwin Coyne, Director, 3432 Henderson Street, Chicago, Ill. 60618. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 129387 (Sub-No. 19TA), filed February 10, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, P.O. Box 1271, Highway 14 E., Huron, S. Dak. 57350. Applicant's representative: Timothy R. Stivers, 115 West State Street, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Section A and C of Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Columbia Foods, Inc., at or near Wallula, Wash., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., Dirk Martin, Transportation Manager, P.O. Box 926, Pasco, Wash. 99301. Send protests to: District Supervisor, J. L. Hammond, Interstate Commerce Commission, Room 365, Federal Building, Pierre, S. Dak., 57501.

No. MC 129615 (Sub-No. 18 TA), filed February 4, 1976. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, P.O. Box 545, 316—13th St., Decatur, Ind. 46733. Applicant's representative: Anthony R. Kierzkowski, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fifth Wheel Travel Trailers* in motor carrier service, between AMF Skamper Div. plant sites in Hegins,

Pa. (Schuylkill Cty.) on the one hand, and, on the other, points in Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: AMF Skamper Division, Box 97 Hegins, Pa. 17938. Send protests to: J. H. Gray District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Rm. 204 Ft. Wayne, Ind. 46802.

No. MC 129615 (Sub-No. 19 TA), filed February 4, 1976. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, P.O. Box 545, 316—13th St., Decatur, Ind. 46733. Applicant's representative: Anthony Kierzkowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Trucks, ambulances, buses, motorhomes* in driveway service in secondary movements, from Grumman Allied Industries plant sites in Montgomery, Pa. (Lycoming County) on the one hand, and, on the other, all points in the United States (including Alaska and Hawaii) for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Grumman Allied Industries, Box 28, R.D. Number 1 Montgomery, Pa. 17752. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Rm. 204, Ft. Wayne, Ind. 46802.

No. MC 134096 (Sub-No. 4 TA), filed February 17, 1976. Applicant: TROPICANA TRANSPORTATION CORP., P.O. Box 338, Bradenton, Fla. 33506. Applicant's representative: Harold E. Spencer & Thomas F. McFarland, Jr., 20 North Wacker Drive, Room 1034, Chicago, Ill. 60606. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned, chilled and frozen citrus products and beverages*, from the plant site of Tropicana Products, Inc. at Bradenton, Fla. to points in Arizona and California, under contract with Tropicana Products, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Tropicana Products, Inc. P.O. Box 338, Bradenton, Fla. 33506. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 136095 (Sub-No. 2), filed February 4, 1976. Applicant: Robert L. Gilbert and Lou E. Gilbert, doing business as GILBERT EXPRESS LINE, 1604 Edgevale Road, Fort Pierce, Fla. 33450. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Accessories used by the floral industry*, from Kent, Ohio, to points in Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee,

Alabama, Maryland, and the District of Columbia, under contract with Smithers-Oasis, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Smithers-Oasis, Post Office Box 118, Kent, Ohio 44240. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission—BOP, Monterey Building, Suite 101, 8410 NW 53rd Terrace, Miami, Fla. 33166.

No. MC 136508 (Sub-No. 4TA), filed February 19, 1976. Applicant: GALE B. ALEXANDER, 120 S. Ward Street, Ottumwa, Iowa 52501. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from Milwaukee, Wis., to Kirksville, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): North Missouri Beverage Co., Inc., Kirksville, Mo. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 138902 (Sub-No. 4 TA), filed February 12, 1976. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, Virginia, 22932. Applicant's representative: Farry C. Ames, Jr., Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between the plant sites of Morton Frozen Foods Division, ITT Continental Baking Company, Inc., at or near Crozet, Va., and Russellville, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Morton Frozen Foods Division, ITT Continental Baking Company, Inc., 2007 Earhart Street, P.O. Box 7547, Charlottesville, Va. 22906. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, I.C.C. Rm. 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 138916 (Sub-No. 18 TA), filed February 18, 1976. Applicant: PHILIP A. THOMAS doing business as PHILIP THOMAS TRUCKING CO., Box 742, Wynnewood, Okla. 73098. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steep asphalt*, in bulk, in tank vehicles, from Wynnewood and Stroud, Okla., to Springdale, Ark., and Joplin and Springfield, Mo., for 180 days. Supporting shipper: Roofing & Sheet Metal Supply Co., Inc., P.O. Box 50066, Tulsa, Okla. 74150. Send protests to: Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office Bldg., 215 N.W. 3rd Street, Oklahoma City, Okla. 73102.

No. MC 139526 (Sub-No. 2 TA), filed February 17, 1976. Applicant: HARRY LINDBERY CO., INC., 6901 Maloney Ave., Hopkins, Minn. 55343. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail grocery and food business houses, and in connection therewith supplies used in the conduct of such business (except commodities in bulk), from the plantsite and storage facilities of Preferred Products, Inc., subsidiary of Super Valu Stores, Inc. at Jonathan Industrial Park located at or near Chaska, Minn., to the facilities of Lewis Grocer at or near Indianola, Miss., for 180 days.* Supporting shippers: Super Valu Stores, Inc., 101 Jefferson Avenue, Hopkins, Minn. 55343. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 140509 (Sub-No. 2 TA), filed February 11, 1976. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, Minn. 56511. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed, frozen and dehydrated potato products, from the plantsites and storage facilities of J. R. Simplot Company located in Hopkins, Fairmont, St. Paul, Crookston and Fosston, Minn., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, restricted to transportation services to be performed under a continuing contract or contracts with J. R. Simplot Company, for 180 days.* Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: J. R. Simplot Company, South Main Street, P.O. Box 618, Crookston, Minn. 56716. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 141763 (Sub-No. 1 TA), filed February 12, 1976. Applicant: Arnold Johnson, doing business as ARNOLD JOHNSON TRUCKING, 502½ Highway 301 North, Folkston, Ga. 31537. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, bark, shavings and sawdust, from points in Charlton County, Ga., to Jacksonville, Fla., under contract with St. Regis Paper Company, for 180 days.* Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: St. Regis Paper Company, P.O. Box 26324, Jacksonville, Fla. 32218. Send protests to: Dist. Supv. G. H. Fauss, Jr., Bureau of Operations, I.C.C., Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 141777 TA, filed February 11, 1976. Applicant: KENNETH D. SIMPSON, doing business as SIMPSON TRUCKING, 203 Summit Street, Fairfield, Ill. 62837. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfinished lumber, from McLeansboro, Ill., to points in Jasper, Lake and Porter Counties, Ind. for 180 days.* Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Lloyd Hall, Individual Owner Hall's Sawmill, McLeansboro, Ill. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 141778 TA, filed February 12, 1976. Applicant: KENNETH A. WEEKS, NELS A. NIELSEN, AND ELINOR WEEKS, doing business as K and A TRANSPORT CO., 15742 Williams St., No. 160, Tustin, Calif. 92680. Applicant's representative: Nels A. Nielsen, 15742 Williams St., No. 160, Tustin, Calif. 92680. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture (new) blanket wrapped and knocked down in cartons, from Fountain Valley, Calif., to Phoenix and Tucson, Ariz. and Las Vegas, Nev. and return to point of origin, under a continuing contract or contracts with Novello Industries, for 180 days.* Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Novello Industries, 18285 Euclid, Fountain Valley, Calif. 92708. Send protests to: Transportation Assistant Mildred I. Price, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 141779 TA, filed February 12, 1976. Applicant: RICHARD ALLEN LONG, doing business as RICHARD'S TOWING SERVICE, No. 4 Paul Drive, Granite City, Ill. 62040. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles and trailers and replacements for said vehicles and trailers, between points in Illinois west of Interstate 57 and south of U.S. Highway 36 and points in Missouri south of U.S. Highway 36, east of U.S. Highway 65 and north of U.S. Highway 60, on the one hand, and, on the other, points in the United States east of Idaho, Utah and Arizona, also, between points in Illinois west of Interstate 57 and south of U.S. Highway 36, on the one hand, and, on the other, points in Missouri south of U.S. Highway 36, east of U.S. Highway 65 and north of U.S. Highway 60, for 180 days.* Supporting shippers: There are approximately 8 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office

named below. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 141780TA, filed February 13, 1976. Applicant: DARRELL ENSOR, doing business as DARRELL R. ENSOR TRANSFER, Box 480, Route 5, Highland Drive, Mt. Sterling, Ky. 40353. Applicant's representative: Darrell Ensor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles, including pick-up trucks, from Dayton, Ohio and all points within 25 miles of the Dayton City limits, and Cincinnati, Ohio and Jeffersonville, Ind., and points within 20 miles thereof, on the one hand, and on the other, points in Montgomery, County, Ky., rejected items on return, for 180 days.* Supporting shipper(s): Larry Reed, Owner, D & D Motors, 704 East Main St., Mt. Sterling, Ky. 40353. Bobby E. Ballard, Owner, Ballards Used Cars, Route 2, Mt. Sterling, Ky. 40353. Richard E. Oldfield, Owner, Oldfields Used Cars, Rural Route 3, Mt. Sterling, Ky. 40353. Send protests to: R. W. Schneider, District Supervisor, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 141792TA, filed February 18, 1976. Applicant: N & N TRUCKING, INC., Box 44, Belk, Ala. 35545. Applicant's representative: Donald B. Morrison, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residual, in bulk (except in tank vehicles), from the facilities of Georgia Pacific Corporation at Belk, Ala., to Louisville and Taylorsville, Miss., for 180 days.* Supporting shipper(s): Georgia Pacific Corporation, Crossett Division, Box 520, Crossett, Ark. 71635. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6270 Filed 3-3-76; 8:45 am]

[Notice 25]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 1, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must

be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

No. MC 44639 (Sub-No. 87TA), filed February 19, 1976. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07070. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk). Between Rutherford, N.J.; Culpeper, Va.; Narrows, Va.; Weber City, Va.; on the one hand, and, on the other, Hope Mills (Cumberland County), N.C., for 180 days. Supporting shipper(s): Trissi, Inc., 309 Veterans Blvd., Rutherford, N.J. 07070. Send protests to: District Supervisor, Joel Morris, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 113770 (Sub-No. 3TA), filed February 18, 1976. Applicant: WILLIAM S. CARROLL, 640 Hammond Street, Brookline, (Chestnut Hill), Mass. 02146. Applicant's representative: James F. Martin, Jr., 3003 Windsor Ridge, Westboro, Mass. 01581. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, from Milford and Bellingham, Mass., and Woonsocket, R. I., to the site of Plainfield Greyhound Park, Plainfield, Conn., and return, restricted to the racing season, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority: Supporting shipper(s): There are approximately (41) statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, Mass. 02114.

No. MC 114533 (Sub-No. 338TA), filed February 20, 1976. Applicant: BANKERS DISPATCH CORPORATION, 1106 W. 35th Street, Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media*, printed matter for testing purposes, and other business records, between Terre Haute, Ind., on the one hand, and, on the other, Indianapolis, Ind. Restricted to shipments having a prior or subsequent movement by air, for 180 days. Supporting shipper(s): S-Tek Computer Services, Inc., Kenneth H. Williams, Vice President of Marketing, 214 S. 13½ Street, P.O. Box 328, Terre Haute, Ind. 47807. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 126736 (Sub-No. 2TA), filed February 18, 1976. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer or fertilizer materials* in bulk, in pneumatic tank vehicles, from Pelham, Ga. to Hastings, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Clyde M. Barns, Rt. 1 Box 135, Hastings, Fla. 32045. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 126736 (Sub-No. 3TA), filed February 18, 1976. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: Mr. L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitroethane*, in bulk, in tank vehicles, from: Sterlington, La.; To: Jacksonville, Fla., for subsequent export movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Merck Chemical Manufacturing Division, Merck & Co., Inc. Rahway, N.J. 07065. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 128030 (Sub-No. 102TA), filed February 19, 1976. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177 R. R. No. 1, Urbana, Ill. 61801. Applicant's representative: R. C. Stout (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Windows, doors, building*

woodwork and materials and accessories used in installation thereof. Restricted against bulk commodities. From: Rantoul, Ill., to points in 48 states and from points in 48 states to Rantoul, Ill., for 180 days. Supporting shipper(s): The Caradco Division, Window and Door Division, Scovill Manufacturing Company, Donald A. Fredericks, Assistant Traffic Manager, 1098 Jackson Street, Dubuque, Iowa 52001. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128256 (Sub-No. 28TA), filed February 20, 1976. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 North Main Street, Middlebury, Ind. 46540. Applicant's representative: William J. Lippman, 1819 H Street, NW., Suite 550, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board, plywood, particle board, hardboard and insulation board, and materials, supplies, and accessories* used in the sale and installation thereof (except commodities in bulk), from Constantine, Mich., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and (2) *materials, supplies and accessories* used in the manufacture and installation of composition board, plywood, particle board, hardboard, and insulation board (except commodities in bulk), from points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to Constantine, Mich., for 180 days. Supporting shipper(s): Simplex Industries, Inc., 3000 West Beecher Rd., Adrian, Mich. 49221. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Rm. 204, Ft. Wayne, Ind. 46802.

No. MC 133757 (Sub-No. 2TA), filed February 20, 1976. Applicant: CAROLINA EAST FURNITURE TRANSPORT, INC., P.O. Box 906, Sumter, S.C. 29150. Applicant's representative: David Homer Cresson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Rocky Mountain, N.C., and Turkey, N.C., to Sumter, S.C.; From Guntown, New Albany, Okolona, and Tupelo, Miss., to North Carolina and South Carolina.

NOTE.—Applicant proposes to tack the authority applied for with that presently held at the following points: Memphis, Tenn., Fort Smith, Ark., Charlotte, N.C., High Point, N.C., Statesville, N.C. and Asheboro, N.C., for 180 days.

Supporting shipper(s): Futorian Corporation, Highway 78 West, New Albany, Miss. 38652. Send protests to: E. E. Strotheld, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 140883 (Sub-No. 6TA), filed February 18, 1976. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, Ga. 30345. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unrated store fixtures*, from the facilities of Warren/Sherer Division of Kysor Industrial Corporation at or near Marshall, Mich., to points in the United States east of U.S. Highway 85 and *materials and supplies* (except commodities in bulk and lumber) used in the manufacture, sale and distribution of store fixtures from points in the United States east of U.S. Highway 85 to the plantsite and warehouse facilities, under contract with Warren/Sherer Division of Kysor Industrial Corporation at or near Marshall, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Warren/Sherer Division of Kysor Industrial Corporation, West Industrial Road, Marshall, Mich. 49068. Send protests to: Mr. William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 141318 (Sub-No. 3TA), filed February 17, 1976. Applicant: PERNSTEINER TRUCKING, INC., Route No. 2, Medford, Wis. 54451. Applicant's representative: Frank J. Nikolay, Box 455, Colby, Wis. 54421. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Doors, sashes, window units, screens, frames and window blinds and materials and supplies* used in the manufacture and distribution of doors, sashes, window units, screens frames and window blinds from Medford, Wis., to points in the States of North Dakota, South Dakota, Montana, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Michigan, Nebraska, Pennsylvania, West Virginia, Iowa and Tennessee, for 180 days. Supporting shipper(s): Norbert J. Brost, Traffic Manager, Weather Shield Manufacturing Inc., Medford, Wis. 54451. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 141652 (Sub-No. 4TA), filed February 19, 1976. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceramic wall and floor tile, and such materials and supplies* as are used in the preparation and installation thereof, from the plantsite and storage facilities of Spartek, Inc., d/b/a Gulf States Ceramic Tile, Houston, Miss., to points in California, Colorado, Idaho, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating au-

thority. Supporting shipper(s): Spartek, Inc., d/b/a Gulf States Ceramic Tile, 1375 Raff Road, S.W., Canton, Ohio 44711. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 141782 (Sub-No. 1TA), filed February 6, 1972. Applicant: C&C CARTAGE COMPANY, INC., No. 3 Birkenhead Street, Port Wentworth, Ga. 31407. Applicant's representative: Paul K. Cates (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except class A and B explosives, between points within the Savannah, Ga., Commercial Zone, restricted to having a prior or subsequent movement by water, for 180 days. Supporting shipper(s): There are approximately (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6271 Filed 3-3-76;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 90]

ATLANTA & SAINT ANDREWS BAY RAILWAY CO. ET AL.

Exemption Under Mandatory Car Service

To All Railroads: *It appearing*, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 398, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company, Reporting Marks: ASAB.
The Baltimore and Ohio Railroad Company, Reporting Marks: BO.
The Chesapeake and Ohio Railway Company, Reporting Marks: CO-PM.
Elgin, Joliet and Eastern Railway Company, Reporting Marks: EJE.

Green Mountain Railroad Corporation, Reporting Marks: GMRC.
Missouri-Kansas-Texas Railroad Company, Reporting Marks: BKT-MKT.
The Pittsburgh and Lake Erie Railroad Company, Reporting Marks: P&LE.
Raritan River Rail Road Company, Reporting Marks: RR.
Sacramento Northern Railway, Reporting Marks: SN.
Sierra Railroad Company, Reporting Marks: SERA.
Tidewater Southern Railway Company, Reporting Marks: TS.
WCTU Railway Company, Reporting Marks: WCTR.
Western Maryland Railway Company, Reporting Marks: WM.

Effective February 24, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 24, 1976.

INTERSTATE COMMERCE
COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-6262 Filed 3-3-76;8:45 am]

[Rule 19; Ex Parte No. 241;
Exemption No. 106]

PENN CENTRAL TRANSPORTATION COMPANY ET AL.

Exemption Under Mandatory Car Service

It appearing, That the Penn Central Transportation Company, Robert W. Blanchett, Richard C. Bond and John H. McArthur, Trustees (PC) and the Reading Company, Andrew L. Lewis, Jr., and Joseph L. Castle, Trustees (Rdg) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 398, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", "GT", and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the PC and Rdg without regard to the requirements of Car Service Rules 1 and 2.

Reporting Marks

PC		Rdg
NH	NYC	Rdg
PC	PRR	

Effective March 1, 1976.

Expires May 31, 1976.

Issued at Washington, D.C., February 25, 1976.

INTERSTATE COMMERCE
COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-6263 Filed 3-3-76;8:45 am]

[I.C.C. ORDER NO. 156]

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

Rerouting Traffic

In the opinion of Lewis R. Teeple, Agent, The Chesapeake and Ohio Railway Company is unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of a derailment between Grand Rapids, Michigan, and Detroit.

It is ordered, That:

(a) *Rerouting traffic.* The Chesapeake and Ohio Railway Company, being unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of a derailment between Grand Rapids, Michigan, and Detroit is hereby authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Chesapeake and Ohio Railroad Company, in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Chesapeake and Ohio Railway Company, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 6:00 a.m., February 21, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 23, 1976, unless otherwise modified, changed or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads, subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Rail-

road Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 21, 1976.

INTERSTATE COMMERCE
COMMISSION,
LEWIS R. TEMPLE,
Agent.

[FR Doc.76-6264 Filed 3-3-76;8:45 am]

[I.C.C. Order No. 157 Under Revised
Service Order No. 994]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Rerouting Traffic

To All Railroads. In the opinion of Lewis R. Teeple, Agent, the Louisville and Nashville Railroad Company (LN) is unable to transport traffic over its line between Otter Creek Jct., Indiana, and Brazil, Indiana, because of track conditions.

It is ordered, That:

(a) *Rerouting traffic.* The LN being unable to transport traffic over its line between Otter Creek Jct., Indiana and Brazil, Indiana because of track conditions, that line is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., February 27, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1976, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 25, 1976.

[SEAL] LEWIS R. TEMPLE,
Agent.

[FR Doc.76-6265 Filed 3-3-76;8:45 am]

[Notice No. 991]

ASSIGNMENT OF HEARINGS

MARCH 1, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. The list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141092, Elmer R. Hopkins and Norma K. Hopkins dba Hopkins Truck Line, now being assigned May 18, 1976 (2 days), at Kansas City, Missouri in a hearing room to be later designated.

MC 139495 (Sub 98), National Carriers, Inc. and MC 138469 (Sub 15), Donco Carriers, Inc. now being assigned May 20, 1976 (2 days), at Kansas City, Missouri in a hearing room to be later designated.

MC 120781 (Sub 5), Kraftours Corporation Extension-Special Operations now being assigned May 24, 1976 (1 week) at Kansas City, Missouri in a hearing room to be later designated.

MC 139871 (Sub 2), Chi-Ru Leasing & Trucking, Inc., now being assigned (continued hearing) May 25, 1976 (2 days), at Chicago, Illinois in a hearing room to be later designated.

MC 141271, Royal Coachman Limited, now being assigned May 24, 1976 (1 Week), at Newark, N.J., in a hearing room to be later designated.

MC 61592 Sub 349, Jenkins Truck Line, Inc., now assigned April 5, 1976 at Billings, Montana, is cancelled and applicant dismissed.

MC 123407 (Sub-No. 274), Sawyer Transport, Inc., now assigned March 24, 1976, at St. Paul, Minn., is postponed indefinitely. I&S No. 9089, General Increase, December, 1975, Williams Pipe Line Company now being assigned continued hearing on April 12, 1976 at 9:30 a.m. at the Offices of the Interstate Commerce Commission in Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6266 Filed 3-3-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 1, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43132—*Joint Water-Rail Container Rates—Seatrains International, S. A.* Filed by Seatrain International, S. A., (No. WEE-15), for itself and interested rail carriers. Rates on general commodities, between rail terminal in Panama City, Florida, on the one hand, and European ports and terminals, on the other.

Grounds for relief—Water competition.

Tariffs—Seatrains International, S. A., tariffs I.C.C. Nos. 9, 10, 11, 12, 13 and 14. Rates are published to become effective on March 29, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6267 Filed 3-3-76; 8:45 am]

[Notice No. 195]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MARCH 3, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before March 23, 1976. Pursuant to Section 17 (8) of the Interstate Commerce Act, the

filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76149. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to F. T. Williams Company, Incorporated, Charlotte, North Carolina, of the operating rights set forth in Certificate No. MC-125981, issued August 5, 1965, to Paul H. Cobb, doing business as Cobb Trucking Company, Lowell, North Carolina authorizing the transportation of crushed stone, in bulk, sand, gravel, dirt, plant mixed asphalt, agricultural lime, and concrete products between points in Cherokee, York, Lancaster, Chesterfield, Chester, Union, Greenville, and Spartanburg, S.C., and Gaston, Cleveland, Rutherford, Catawba, Lincoln, Mecklenburg, Union, Stanly, Cabarrus, and Anson Counties, N.C. George W. Clapp, Practitioner, P.O. Box 836, Taylors, South Carolina 29687.

No. MC-FC-76234. By order of February 24, 1976, the Motor Carrier Board approved the transfer to Graham Express, Inc., Somerville, Mass., of Certificate of Registration No. MC-75997 issued November 24, 1965, to Radford's Express, Inc., Cambridge, Mass., evidencing a right to engage in transportation in interstate commerce as described in Irregular Route Common Carrier Certificate No. 3372 issued by the Massachusetts Department of Public Utilities. Mary E. Kelley, 11 Riverside Ave., Medford, Mass. Department of Public Utilities, Mary E. Laursen, 28 State St., Boston, Mass. 02109, attorney for transferor.

No. MC-FC-76235. By order of February 24, 1976, the Motor Carrier Board approved the transfer to Platte Valley Freightways, Inc., Sterling, Colo., of the operating rights in Certificates No. MC-72423 and 72423 (Sub-No. 1), issued June 23, 1967 respectively to R. D. Houndshell, doing business as Sterling Transfer Co., Sterling, Colo., authorizing the transportation of various commodities from, to and between specified points and areas in Colorado, Nebraska, Iowa, Kansas, New Mexico and Wyoming. Raymond M. Kelley, 450 Capitol Life Center, Denver, Colo. 80203, attorney for applicants.

No. MC-FC-76249. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to Schneider's Frame & Axle, Inc., Blissfield, Michigan, of the operating rights set forth in Certificate No. MC-112577, issued De-

cember 3, 1951, to Howard Schneider doing business as Schneider's Frame & Axle Service, Inc., Blissfield, Michigan authorizing the transportation of wrecked, damaged, or disabled motor vehicles, by truckaway method, between Blissfield, Mich., and points within 30 miles thereof, on the one hand, and, on the other, points in Ohio. William B. Elmer, 2135 East Nine Mile Road, St. Clair, Shores, Michigan 48080, attorney for applicant.

No. MC-FC-76357. By order of February 24, 1976, the Motor Carrier Board approved the transfer to Max Kafer Corp., New York, N.Y., of Certificates Nos. MC-87123 and MC-87123 Sub-No. 4 issued January 7, 1971, and September 20, 1971, respectively, to Max Kafer Express, Inc., New York, N.Y., authorizing the transportation of clothing, wearing apparel and other commodities from, to and between specified points in New Jersey, New York, and Pennsylvania. Arthur J. Pinken and Bruce J. Robbins, Attorneys-at-Law, 1 Lefrak City Plaza, Flushing, N.Y. 11368, attorneys for applicants.

No. MC-FC-76379. By order of February 24, 1976 the Motor Carrier Board approved the transfer to Meiko Freight Service, Inc., Long Beach, Calif., of the operating rights in Certificate No. MC-32570 issued August 16, 1949, to Quick Service Transfer Co., Carson, Calif., authorizing the transportation of general commodities, with exceptions, between points in the Los Angeles Harbor Commercial Zone, on the one hand, and, on the other, points in the Los Angeles Commercial Zone. R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, Calif., 90017 Attorney for applicants.

No. MC-FC-76388. By order entered February 24, 1976, the Motor Carrier Board approved the transfer to Raymond N. Morauer, Gaithersburg, Md., of the operating rights set forth in Certificate No. MC-101265, issued April 18, 1960, to Washington Trailer Co., Inc., Landover, Md., authorizing the transportation of contractor's machinery and heavy equipment, and construction machinery, equipment, and supplies, which require rigging apparatus for loading or unloading, between points in the Washington, D.C., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, specified points in Virginia and Maryland. S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6268 Filed 3-3-76; 8:45 am]

federal register

THURSDAY, MARCH 4, 1976



PART II:

CONSUMER PRODUCT SAFETY COMMISSION



FIREWORKS DEVICES

**Rulings on Exceptions, Findings of Fact,
Conclusions of Law, and Tentative Order**

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1500, 1507]

FIREWORKS DEVICES

Rulings on Exceptions, Findings of Fact, Conclusions of Law, and Tentative Order

In the matter of Fireworks Devices, the Consumer Product Safety Commission, pursuant to section 2(q) (1) (B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q) (1) (B)) and 21 CFR 2.97, issues the following rulings on exceptions, findings of fact, conclusions of law and tentative order:

A. *Background and chronology of proceeding.* In the FEDERAL REGISTER of May 16, 1973 (38 FR 12880), the Food and Drug Administration (FDA), pursuant to section 2(q) (1) (B) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261(q) (1) (B)), proposed a regulation to amend 21 CFR 191.9(a) (3) which would have banned all fireworks devices except those in compliance with requirements set forth in proposed 21 CFR Part 191d. FDA also proposed to revoke the exemption for certain articles from classification as banned hazardous substances under 21 CFR 191.65(a) (2). In addition to banning those fireworks devices which did not comply with the requirements in proposed Part 191d, the proposal would have banned all fireworks devices for which specific requirements were not established.

In response to the May 16, 1973, proposal, over 350 comments were received from interested individuals, consumer groups, manufacturers, distributors, trade associations, state and local government officials and law enforcement agencies. Some, including various fire marshals, favored promulgation of the regulations as proposed. Others, including various consumer groups, opposed the regulations and called for a total ban of all fireworks except those utilized for public display. A substantial number of comments were also received objecting to the ban on firecrackers on various grounds including the claim that such action would be an infringement of religious freedom. Finally, comments were received from industry groups, individual manufacturers and distributors both supporting and objecting to various portions of the regulations.

On May 14, 1973, the Consumer Product Safety Commission (hereinafter referred to as "Commission" or "CPSC"), pursuant to section 30(a) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2079(a)), assumed responsibility for and administration of the FHSA. On September 27, 1973 (38 FR 27012), the Commission transferred existing fireworks regulations under the FHSA from 21 CFR Parts 191 and 191d to 16 CFR Parts 1500 and 1507.

After assuming its duties under the FHSA, the Commission studied the FDA proposal and the comments received. Based on this information, the Commission revised the FDA proposal and on May 16, 1974 (39 FR 17435), published a proposed final regulation.

The Commission's regulation, although following the FDA proposal with regard to firecrackers, made substantial changes insofar as it applied to other Class C¹ fireworks devices. Generally, the Commission's regulation established performance requirements for certain fireworks devices did not ban those fireworks for which no requirements were established as had been done in the FDA proposal. The specific changes made by the Commission to the FDA proposal and the basis for the changes are discussed at length in the FEDERAL REGISTER notice containing the Commission's order, 39 FR 17435 et seq., and will not be reiterated herein except insofar as they may be relevant to contested issues.

Subsequent to publication of its regulation, the Commission received written objections² from the following parties:

¹ Classification of firecrackers and fireworks devices originates in regulations initially promulgated by the Interstate Commerce Commission (ICC) concerning transportation of explosive devices. Those regulations, now administered by the Department of Transportation, 49 CFR Part 173, Subpart B, are generally based on the volume of explosive material contained in any given device. The ICC classifications were adopted by the industry and have been utilized in various federal and state statutes and regulations. Only Class B and Class C designations are applicable to firecrackers or fireworks discussed or considered herein.

² Proceedings for the issuance, amendment, or repeal of a regulation pursuant to section 2(q) (1) (B) and 3(a) of the FHSA are procedurally governed by section 701(e) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 371(e), and regulations promulgated thereunder, 21 CFR 2.48 et seq. See also section 2(q) (2), FHSA, 15 U.S.C. 1261(q) (2), and section 30(e) (2), CPSA, 15 U.S.C. 2079(e) (2). Section 701(e) requires that notice of issuance of a proposed regulation be published in the FEDERAL REGISTER affording all interested persons an opportunity to present their views orally or in writing. As soon thereafter as practicable the Commission must act on the proposal and publish its regulation. The statute further provides that any person adversely affected by such regulation may, on or before 30 days after its publication, lodge objections to any part of the regulation and may request a public hearing on such objections. Upon receipt of objections, the Commission determines whether or not the same are legally sufficient. If ruled to be legally sufficient, the objections are considered filed and automatically operate to stay the effective date of the regulation pending resolution of issues raised by the objections. Upon the filing of objections, the Commission is required to publish notice of such fact (or the absence of objections) in the FEDERAL REGISTER and as soon thereafter as possible to give notice of a public hearing for the purpose of receiving evidence relevant and material to the issues raised by the objections. Regulations issued under section 701(e) provide that on completion of hearings the presiding officer is to issue a report and as soon thereafter as practicable the Commission shall publish in the FEDERAL REGISTER a tentative order containing findings of facts and conclusions. The Commission is thereafter required to permit the opportunity for exceptions by parties to the tentative order. After rulings on exceptions, the Commission must issue and publish in the FEDERAL REGISTER its final order.

Oklahoma Pyrotechnics Association, The Macao Fireworks Manufacturers Association, Li and Fung Trading Ltd., Hong Kong, Taiwan Fireworks Manufacturers Association, Blogin Sales Company, State of Hawaii, Mike's Fireworks & Toys, Inc.

The objections claimed, *inter alia*: (1) That a ban of firecrackers is unnecessary as they are capable of being redesigned so as to reduce the degree or nature of any hazard; (2) firecrackers of approximately 1/2 grain do not present a degree of hazard which justifies banning; (3) firecrackers of less than 2 grains can be made safer through cautionary labeling; (4) the available injury data does not justify a ban; (5) banning of firecrackers is arbitrary and capricious; (6) the effective date of the proposed labeling regulations is not in compliance with law; (7) the Commission lacks statutory authority under the FHSA to promulgate safety standards; (8) the performance requirements for various fireworks devices are unlawfully vague; (9) inadequate lead time is given to allow manufacturers and distributors to exhaust noncomplying inventory; (10) a ban on fireworks is an infringement on religious and cultural freedoms; and (11) inadequacies exist in the labeling requirements. Requests for a public hearing were made on the issues raised by the objections.

Upon receipt of objections, the Commission determined that sufficient grounds for staying the regulation had been stated. On July 11, 1974, the Commission published a notice in the FEDERAL REGISTER, 39 FR 25473, staying the effective date of the regulation and advised that the matter would be set down for public hearing. On August 1, 1974, the Commission published a notice in the FEDERAL REGISTER, 39 FR 27828, advising of hearings, prehearing conference, and that evidence would be received on the following issues:

(1) Do firecrackers (as specified in § 1500.17(a) (8) of the order issued May 16, 1974 (39 FR 17435)), when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that notwithstanding cautionary labeling the protection of the public health and safety can be assured only by prohibiting such articles from the channels of interstate commerce?

(2) Do fireworks devices (as specified in § 1500.17(a) (9) of the order issued May 16, 1974 (39 FR 17435)), failing to meet certain safety requirements when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that notwithstanding cautionary labeling the protection of the public health and safety can be assured only by prohibiting such articles from the channels of interstate commerce?

(3) Should an exemption from the banning of certain firecrackers and other fireworks be provided for certain controlled religious and cultural uses?

(4) Are the labeling requirements (as specified in § 1500.14(b) (7) of the order issued May 16, 1974 (39 FR 17435)), necessary and appropriate in the interest of the public health and safety?

(5) Are the performance requirements and other requirements for fireworks devices (as specified in Part 1507 of the order issued May

16, 1974 (39 FR 17435)), sufficiently clear to be enforceable?

A prehearing conference was scheduled for September 10, 1974, at the Commission's offices in Washington, D.C., and any interested party desiring to participate was invited to attend. Notice was also given that Honorable Paul N. Pfeiffer, Administrative Law Judge, had been designated by the Civil Service Commission to serve as presiding officer for the proceeding.

Requests to participate in the hearings and/or appearances were filed by or on behalf of staff counsel for the Commission; American Academy of Pediatrics; National Society for the Prevention of Blindness, Inc.; Joseph A. Page, Kevin Bromberg, Nancy A. Newman and Thomas K. Wilka, Georgetown University Law Center; District of Columbia Fire Department; Consumers Union of the United States; American Public Health Association; Catherine C. Cook and family; Fire Marshals Association of North America; City of Seattle Fire Department; Ralston, Nebraska, Chamber of Commerce; American Pyrotechnic Association; State of Hawaii; Blogin Sales Company; Oklahoma Pyrotechnics Association; Macao Fireworks Manufacturers Association; Li and Fung, Ltd., Hong Kong; Taiwan Fireworks Company; Mike's Fireworks and Toys, Inc.; Stonebraker-Rocky Mountain Fireworks Co.; H. P. Cannon Wholesale Fireworks; Liddell Fireworks Co.; J. P. Tompkins; and Prevention of Blindness Society of Metropolitan Washington.²

Pursuant to requests received both prior to and at the prehearing conference, the presiding officer scheduled hearings in Kansas City, Missouri and Honolulu, Hawaii in addition to those scheduled for Washington, D.C. Also, at the conference, requests were made to enlarge the issues beyond the scope of those published in the August 1, 1974, FEDERAL REGISTER notice. Subsequent to the conference, Health Research Group (HRG) American pyrotechnics Association (APA), and Oklahoma Pyrotechnics Association, et al. (OPA),³ filed motions to enlarge and clarify the issues. American Public Health Association (APHA), Catherine Cook and Joseph Page filed a motion with the Commission opposing the scheduling of hearings outside Washington, D.C. and enlargement of the issues. Staff counsel also filed an opposition to enlargement of the issues.

On September 23, 1974, the presiding officer issued a pre-hearing order enlarging the issues to include the following:

(6) Do fireworks devices (as they are described in §§ 1500.4(b) (7), 1500.14(b) (7) (1) through 1500.14(b) (7) (xv), 1500.17(a) (9)

² Appearances were also filed by Austin Fireworks, Inc., and Consigned Sales, Inc., during the course of the hearings.

³ Oklahoma Pyrotechnics Association; Macao Fireworks Manufacturers Association; Li and Fung, Ltd., Hong Kong; and Taiwan Fireworks Company participated in the proceedings as a group taking identical positions through the same counsel. Hereinafter, references to this group will be designated as "OPA."

and 1507.1 through 1507.7 of the order of May 16, 1974 (39 FR 17435)) which meet all performance and labeling standards set forth in that order, when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that, notwithstanding cautionary labeling or performance standards or both as set forth in the order of May 16, 1974 (39 FR 17435), the protection of the public health and safety can only be assured by prohibiting such articles from the channels of interstate commerce?

(7) Do fireworks devices (as they are described in §§ 1500.14(b) (7), 1500.14(b) (7) (1) through 1500.14(b) (7) (xv), 1500.17(a) (9) and 1507.1 through 1507.7 of the order of May 16, 1974 (39 FR 17435)) which meet all performance and labeling standards set forth in that order, when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that, notwithstanding cautionary labeling or performance standards or both as set forth in the order of May 16, 1974 (39 FR 17435), the protection of the public health and safety can only be assured by the issuance of more stringent performance and labeling requirements?

(8) Do there exist religious practices involving the use of firecrackers and fireworks which would justify exemption from the order of May 16, 1974 (39 FR 17435) for firecrackers and fireworks devices used in such religious practices and the imposition of other, less restrictive, regulatory strategies to protect the public health and safety?

(a) What is the nature and extent of these religious practices?

(b) What less restrictive alternatives are available which can adequately protect the public safety and health and to what kinds of firecrackers or fireworks devices can they be applied with due regard to the protection of the public health and safety?

(9) Do there exist cultural (specifically non-religious) uses of firecrackers and fireworks devices which would justify exemption from the order of May 16, 1974 (39 FR 17435) for firecrackers and fireworks devices used in such activities and the imposition of other, less restrictive, regulatory strategies?

(a) What is the nature and extent of these cultural uses?

(b) What less restrictive alternatives are available which can adequately protect the public health and safety and to what kinds of firecrackers or fireworks devices can they be applied with due regard to the protection of the public health and safety?

(10) Should manufacturers, distributors, and retailers of firecrackers and fireworks devices be granted a grace period, after the effective date of the order of May 16, 1974 (39 FR 17435) or any amendments and substitutes to that order, during which they may sell previously manufactured items which do not comply with the specifications of the order or any amendment or substitute to it?

(11) Specifically, is there a sufficient legal and factual basis for § 1507.9(b) of the order issued May 16, 1974 (39 FR 17435), which provides that

Toy smoke devices and flitter devices shall not be of such color and/or configuration so as to be confused with banned fireworks such as M-80 salutes, silver salutes, or cherry bombs.

Further, should the said § 1507.9(b) be modified to read as follows:

Toy smoke devices and flitter devices shall not be of such color and/or configuration so as to be confused with banned fireworks such as M-80 salutes, silver salutes, or cherry bombs.

(12) Further, should devices containing less than six grams of pyrotechnic composition, manufactured or imported before the effective date of the regulations at issue in

the present hearing, be exempt from the requirement of § 1507.4 of the order issued May 16, 1974 (39 FR 17435), which provides that

The base or bottom of fireworks devices that are operated in a standing upright position shall have the minimum horizontal dimension or the diameter of the base equal to at least one-third of the height of the device.

(13) Specifically, is there a sufficient legal or factual basis for the requirement of § 1500.14 of the order issued May 16, 1974 (39 FR 17435), that labels on certain kinds of fireworks devices refer to "close" adult supervision?

Should the said § 1500.14 be modified to allow labels referring to "adult supervision," rather than "close adult supervision," on fireworks devices manufactured or imported before the effective date of the regulations at issue in the present hearing?

(14) Does a sufficient factual, legal or equitable basis exist for not allowing a reasonable time for clearing existing inventories of fireworks devices which were manufactured or imported prior to the effective date of the regulations and which do not comply with the proposed labeling or performance requirements?

(15) Can the following terms be sufficiently clarified so as to permit compliance?

(a) Section 1507.3(a), "utilize only a fuse that has been treated or coated in such a manner as to reduce the possibility of side ignition."

(b) Section 1507.4, "base equal to at least one-third of the height of the device."

(c) Section 1507.6, "burnout or blowout."

(16) Does a reasonable factual basis exist for changing the language of proposed section 1507.9(b), "color and/or configuration," to "color and configuration?"

(17) Whether there is sufficient evidence demonstrating that there is a usage of fireworks devices and firecrackers for bona fide cultural and religious purposes.

(18) Whether there is sufficient evidence of the nature and extent of injuries resulting from the usage of firecrackers and fireworks devices at controlled cultural festivities and religious ceremonies.

The order also provided that parties not attending the hearings in Kansas City and Honolulu but desiring to cross-examine witnesses could submit written interrogatories to staff counsel for presentation.

On October 1, 1974 (published in the FEDERAL REGISTER, October 7, 1974 (39 FR 36041)), the Commission denied APHA's motion opposing transfer of the hearings and enlargement of the issues. The Commission ordered the presiding officer to separate his report and findings on issues numbered 6 and 7 from the remaining issues. It also left to the presiding officer's discretion the option of allowing a representative of parties in favor of the proposed rule or a stricter rule to appear at the Kansas City and Honolulu hearings at Commission expense.

In accordance with the Commission order of October 1, 1974, the presiding officer advised the concerned consumer groups including APHA and HRG to select one representative to represent them at the hearings in Kansas City and Honolulu at the Commission's expense. David Masselli, Esq., Counsel for HRG was selected and appeared at the Kansas City and Honolulu hearings.

On October 1-8, 1974, hearings were held in Washington, D.C. Testimony was heard from representatives of the Fire Marshals' Association of North America (FMNA); National Fire Protection Association; CPSC staff; District of Columbia Fire Department; American Academy of Pediatrics (AAP); American Pyrotechnic Association; Oklahoma Pyrotechnic Association; National Society for the Prevention of Blindness, Inc. (NSPB); and New Jersey Fireworks Manufacturing Co.

On October 21-23, 1974, hearings were held in Kansas City, Missouri. Witnesses included the Mayor of Riverside, Missouri; the Sheriff of Platte County, Missouri; Principal of a school in Parkville, Missouri; a professor of biometry from the University of Texas; representatives of Blogin Sales Co.; Fire Marshal's office of Topeka, Kansas; Kansas City, Kansas Fire Department; Mike's Fireworks and Toys, Inc.; Ralston, Nebraska, Chamber of Commerce; Stonebraker-Rocky Mountain Fireworks Company; and Consigned Sales Company.

On October 29-November 1, 1974, hearings were held in Honolulu, Hawaii. Witnesses included a funeral director, experts in Chinese religion and studies, residents, a nurse and social psychologist, a school official, a student, a noise pollution expert, representatives of Hawaii Oriental Importers Association, The League of Citizens for Decency, Sheraton Hotels, Citizens Against Noise of Hawaii, American Pyrotechnic Association, United Chinese Society in Hawaii, Chinese Chamber of Commerce of Hawaii, Chinese Physical Culture Association, Hilton Hawaiian Village, Honolulu Pediatrics Society, American Lung Association of Hawaii, American Thoracic Society, and the Honolulu Police Department.

On January 28, 1975, staff counsel filed a motion with the presiding officer for leave to file exceptions to his forthcoming report. On February 3, 1975, the presiding officer returned the motion noting that the request would be more appropriately addressed to the Commission.⁵ Thereafter briefs were filed before the presiding officer. On February 3, 1975, staff counsel filed an objection to certain evidence contained in the brief of Mike's Fireworks and Toys Inc., based on grounds that under the rules of practice such evidence could not be considered. On February 10, 1975, the presiding officer entered an order reopening the hearings to hear testimony regarding the existence and the characteristics of certain black powder firecrackers and fuses.

On February 13, 1975, HRG filed a motion with the presiding officer objecting to portions of his February 10, 1975,

order and seeking a clarification of the rights of the parties. Simultaneously HRG moved to stay the order reopening the hearings pending a ruling on its motion to clarify.⁶ On February 21, 1975, the reopened hearing was conducted in Washington, D.C. Testimony was heard from witnesses called by Mike's Fireworks and Toys, Inc. and staff counsel, and evidence was received and demonstrations were performed. Subsequent to the reopened hearing, supplemental briefs were filed.

On April 8, 1975, the presiding officer issued his report. The report consists of summary conclusions and a narrative opinion divided into two parts, the first applying to "proposals to strengthen the regulation" and the second to "proposals to weaken the regulation". The conclusions as stated in the report were as follows:

REPORT OF PRESIDING OFFICER PAUL N. PFEIFFER

PART ONE—PROPOSALS TO STRENGTHEN THE REGULATION

1. The protection of the public health and safety does not require the banning of all Class C fireworks from interstate commerce. (pp. 13-33)

2. However, to achieve adequate public safety the proposed regulation should be strengthened in the following respects:

(a) Class C fireworks labelling should be printed in bold face type with large lettering accompanied by an appropriate symbol denoting the type of danger involved (e.g., explosive or incendiary); labelling should be addressed to adults rather than children and include a warning against injury by misuse and an injunction against use by children under 14 years of age unless closely supervised by adults.

(b) All Class C fireworks except party poppers should be labeled so as to enjoin children from holding the device in hand except under close supervision of adults. (pp. 34-40)

(c) Colored sparklers and hand-held Roman Candles should be prohibited from the channels of interstate commerce. (pp. 41-44, 55)

(d) Fuses should be manufactured so that the actual burning point is clearly visible to a nearby user as it progresses toward the firework devices; no exemption from the requirement to reduce the possibility of side ignition is necessary for items containing less than 6 grams of pyrotechnic composition, adhesion of the fuse should be accomplished in such manner as to eliminate destruction of its coating and alteration of its contents if not seasonably sold; fuses should be color-coded and indexed so as to facilitate tracing of the firework to the manufacturer; packing of fireworks devices should be performed in a secure manner so as to minimize damage to fuses and other components in transit. (pp. 44-51)

(e) The requirement that bases shall be horizontally equal to at least one-third of

the height of the device should be clarified to insure that, for measurement purposes, the device includes the base or any cap affixed thereto; and further that such bases be designed so as to enhance stability when pressed into soft ground, e.g., by forming a solid circular area seated directly under the cylindrical device surrounded by a squared ridge. (pp. 52-3)

(f) Spikes provided with fireworks devices should be manufactured of material other than metal but suitable, nevertheless, for insertion in hardened surfaces. (pp. 54-5)

PART TWO—PROPOSALS TO WEAKEN THE REGULATION

1. The protection of the public health and safety does not require the banning of Class C firecrackers as hazardous substances; but the proposed regulation should be revised to require a reduction in their powder contents to a maximum of 1.2 grains of flash-powder or 2 grains of black powder or nitrate flashpowder, and to reflect the improved labelling, fuse, and packing requirements recommended in Part One. (pp. 1-17)

2. Smoke bombs and fitter devices possessing color and configuration similar to banned items should be banned as hazardous substances. (pp. 18-19)

3. Lead time to permit manufacturing change-over to comply with the final regulation will be adequate if the proposed regulation is finalized shortly after July 4, 1975. (pp. 20-21)

4. Adaptation of the Commission's excellent toy safety information and education program to Class C fireworks would substantially enhance public safety, particularly commencing during the Bicentennial year. (p. 22)

Pursuant to the Commission's order of April 21, 1975 exceptions were filed by staff counsel, OPA, APA, HRG, AAP, FMNA, Liddell, Blogin, NSPB, APHA, and Catherine C. Cook. The exceptions generally followed the positions of the parties and contested provisions of the presiding officer's report which were inconsistent with those positions. Comments were also received from Ralston Chamber of Commerce, Mike's Fireworks and Toys, Inc., and Austin Fireworks, Inc. Replies to exceptions were received from NFPA, Blogin, APA, Staff Counsel, OPA, APHA, NSPB, State of Hawaii and Mike's Fireworks and Toys, Inc.

B. Scope of the issue. The Commission has reviewed the testimony, evidence, pleadings and submissions of the parties in this matter. At the outset the Commission is faced with a procedural decision regarding the presiding officer's enlargement of the issues for consideration. As noted, supra, this proceeding is governed by the provisions of section 701(e) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 371(e). Under the procedure set forth in that statute and the regulations issued thereunder, 21 CFR 2.48, et seq., the purpose of the hearing is to receive evidence relevant and material to the issues raised by timely filed objections. "Dyestuffs and Chemicals, Inc. v. Flemming," 271 F.2d 281 (8th Cir. 1959). Within this framework only issues colorably raised in the regulation and by the objections can be considered. Although this proceeding is essentially a rulemaking proceeding, the hearing aspects are statutorily confined. Many matters raised, which could possibly be considered in informal rulemaking under the

⁵ On February 6, 1975 staff counsel submitted its motion for leave to take exceptions to the Commission. On March 10, 1975 the Commission denied the motion as premature pending the filing of the presiding officer's report. On April 11, 1975 after the filing of the report, staff counsel resubmitted its motion, and on April 21, 1975, the Commission granted the motion.

⁶ HRG initially filed its motion to stay with the Commission. This motion was withdrawn on February 12, 1975. The Commission on February 18, 1975, apparently unaware of the withdrawal, denied the HRG motion for failure to present the matter to the presiding officer for a ruling. By notice served February 14, 1975 (filed February 19, 1975), the presiding officer advised that the matters raised by HRG in its various motions would be considered during the course of the reopened hearings.

Administrative Procedure Act, cannot be considered under 701(e) procedure. This is not to say that material extraneous to the issues will be ignored. Indeed, the Commission received substantial instructional information which will assist in further refining the regulation to provide maximum safety. The Commission notes that it does not view its rulemaking function as a one-time effort, but as an ongoing process of refinement to best protect the public interest.

In the present action the presiding officer substantially enlarged the issues to be considered. A fair reading of the objections demonstrates that issues 8-18 were raised therein and were properly within the scope of the hearing. The Commission believes it was error, however, to add issues 6 and 7 as to banning fireworks devices or issuing more stringent regulation since they were not raised by timely objection. Furthermore, it was error to issue any recommendations with respect to banning Roman candles and colored sparklers as these were not within the scope of the original regulation. Apart from the statutory requirement, the inclusion of issues and matters not raised in the regulation in its published form, or by the objections and without further public notice would appear not to satisfy essential due process notice requirements. See generally, "Wagner Electric Company v. Volpe," 466 F.2d 1013 (3rd Cir. 1972). In this regard there may have been parties who would have participated in the proceedings had they received advance public notice of the added issues.⁷ Here the notice was only given to the parties who had already expressed a desire to participate and not the public at large.

HRG argues that issues 6 and 7 were properly part of the proceeding since the Commission can ban fireworks devices pursuant to section 2(q)(1)(A) without further public notice or hearing. The Commission believes that this cannot be done and, because of the lack of notice, renders those issues beyond the permissible scope of this proceeding. Although certain categories of children's articles are subject to the "automatic ban" provisions of section 2(q)(1)(A), fireworks devices do not fall into this category. Section 2(q)(1) includes a proviso "[t]hat the * * * [Commission], by regulation * * * (ii) shall exempt from clause (A), and provide for the labeling of, common fireworks * * * to the extent that * * * [it] determines that such

articles can be adequately labeled to protect the purchasers and users thereof." The House report accompanying the legislation of which the proviso was a part indicated that: "[t]he * * * [Commission] would also be required to exempt by regulation 'common fireworks * * * from the ban, to the extent that * * * [it] determines that these fireworks can be adequately labeled for the protection of the public purchasers, and users [and] in such cases * * * would be required to require and provide for this cautionary labeling." H.R. Rep. No. 2166, 89th Cong., 2d Sess. p. 6 (1966).

The clear language of the proviso and the unambiguous legislative history make it clear that the Commission cannot act automatically to ban fireworks under section 2(q)(1)(A), but must first initiate regulatory proceedings. Under both the Administrative Procedure Act and the section 701(e) procedure, any such regulatory action must be preceded by public notice.

C. *Federal Hazardous Substances Act-Jurisdiction.* The Commission's jurisdiction to promulgate the regulation herein rests on the FHSA. For a product to come within the ambit of the act it must, first, be a "hazardous substance" within the definition contained in the statute. Secondly, it must be "intended for use by children" or * * * intended, or packaged in a form suitable for use in the household.⁸ Finally, the product cannot fall within any exemptions to the act.

Section 2(f)(1) of the FHSA defines the term "hazardous substance" to include:

(A) Any substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(B) Any substances which the * * * [Commission] by regulation finds, pursuant to the provisions of section 3(a), meet the requirements of subparagraph 1(A) of this paragraph.

The determination of whether or not a substance is a "hazardous substance" requires a two-step approach. The first step is to determine if the substance falls within the enumerated classifications of section 2(f)(1)(A) (i-vi). In the present case the firecrackers and fireworks devices which are within the scope of this proceeding unquestionably fall into the category of "flammable or combustible" or "generates pressure through decomposition, heat, or other means." In some cases the devices fall into both of these

categories. The second step in the analysis is to determine if the substances "may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use * * *." This step requires consideration of various quantitative and qualitative information. Relevant data include injury statistics, gravity of injuries, inherent dangers, testing information and expert views. The determination of whether a product may cause substantial personal injury does not depend solely on a "body count" of injury statistics, but rather on various factors which draw from the Commission's expert knowledge and information. In the present case the evidence contains considerable statistical information as well as expert testimony that demonstrates that firecrackers and fireworks devices do in fact cause substantial personal injury as a proximate result of customary and reasonably foreseeable handling and use. The parties do not seriously contest this fact.⁹ The major point of contention, particularly in the case of firecrackers, is not whether they are "hazardous substances", but whether the nature and degree of the hazard warrants a banning order under section 2(q)(1)(B).

Having satisfied the foregoing determinations and not being within a specific exemption,¹⁰ the next major jurisdictional hurdle is to determine whether the products are intended or packaged in a form suitable for use in the household. Although a substance may in fact be a "hazardous substance," the Commission has no authority to regulate under the FHSA unless the intended use or packaging pre-requisite is satisfied. The term "hazardous substances intended, or packaged in a form suitable for use in the household" is defined in the Commission's regulations, 16 CFR 1500.3(c)(10)(i) as:

any hazardous substance, whether or not packaged, that under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell, or in or around any related building or shed including, but not limited to, a garage, carport, barn, or storage shed.

In addition, the regulations provide that an appropriate test is: "whether under any reasonably foreseeable condition or purchase, storage, or use, the article may be found in or around a dwelling".

From the foregoing analysis it is clear that if a product is intended by the manufacturer, distributor or other person in the chain of distribution for a non-household, commercial use, and is

⁷ The decision as to when further public notice is required to advise of new matters is a difficult problem, and to a large degree, depends on the action being taken. Clearly, some changes in the regulation are permissible without further public notice. The rules of practice recognize that a party may object and seek substitution of an alternative provision for which such party carries the burden of proof. See 21 CFR 2.63(b). The public notice requirement is satisfied since the public, being aware that a specific provision has been questioned, is on notice that the Commission will reexamine the provision and may, based on the evidence, adopt, reject or modify it.

⁸ Regulation of articles "intended for use by children" is governed by sections 2(q)(1)(A) and 3(e) of the FHSA. In light of the Commission's decision to proceed herein under section 2(q)(1)(B) of the Act, the authority to regulate on the basis of articles intended for use by children will be omitted from the following discussion.

⁹ Indeed Congress itself recognized that fireworks are "hazardous substances" by its inclusion of the proviso in the 1966 amendments exempting "common fireworks" from section 2(q)(1)(A).

¹⁰ Under the FHSA exemptions are provided for certain categories of substances such as foods, drugs, cosmetics, and pesticides regulated under other statutory schemes. See section 2(f)(2).

packaged and distributed for non-household, commercial use, it does not fall within FHSA jurisdiction. The product may, however, become subject to the FHSA if its intended use or packaging is altered at any step in the distribution or marketing process.

In the present case, most of those firecrackers and fireworks devices which eventually are utilized by the consuming public clearly are intended and packaged for use in the household. Accordingly they fall within the regulatory authority of FHSA. There are, however, a substantial number of firecrackers and fireworks devices which, although affecting the consuming public, are not subject to the Commission's regulatory authority under the FHSA. These primarily include those items which are intended and packaged for use commercially and for public displays.¹¹

In the case of public displays, there was evidence that at times such articles did come into the hand of unauthorized individuals, such as persons retrieving devices that failed to detonate. Instances were described where spectators at displays were injured from malfunctioning or improperly detonated devices. The evidence did not demonstrate, however, that these devices were intended or packaged for use in the household. Thus, they are beyond the Commission's jurisdiction to regulate in this proceeding. The Commission notes that the evidence demonstrated that display devices are generally regulated through a permit system administered by municipalities on the local level. The record does not indicate that Class B display items were being sold for household use. If such display items were commonly distributed in this fashion, the Commission's jurisdiction under the FHSA would extend to regulating these items, notwithstanding any labeling that such items were for display use only. In this situation, the intent to distribute for household use would activate the Commission's FHSA jurisdiction.

In addition to large public displays, the record in this case demonstrates that in Hawaii firecrackers and fireworks devices are utilized by various commercial and institutional groups. Thus in Hawaii hotels, funeral homes, cemeteries and other organizations utilize the devices, and particular firecrackers, in conjunction with various ceremonies and celebrations. Regardless of a possibility of a religious exemption, articles intended and packaged for such non-household commercial or institutional uses are beyond the scope of the FHSA and are thus not subject to Commission regulation in this proceeding.

Once having met the jurisdictional prerequisites referred to above, the Commission has the authority to require that cautionary labeling be affixed to any "hazardous substance". Failure to label properly renders the product a "misbranded hazardous substance." Where the Commission finds that the hazard

posed by the product is of such a degree or nature that cautionary labeling is inadequate to protect the consumer public, the Commission has the authority to declare a product a "banned hazardous substance." The use of the channels of interstate commerce for the introduction, distribution or sale of any "misbranded hazardous substance" or "banned hazardous substance" is a criminal act and subjects the articles in question to seizure and condemnation.¹²

D. *Firecrackers.* The most sharply contested provision of the regulation has been the ban on firecrackers. Staff counsel, HRG, FMNA APHA, NSPB, APA and others have all taken positions advocating the ban. The proponents argue strenuously that Class C firecrackers cause serious injuries. They claim that firecrackers are inherently dangerous and cannot be labeled or redesigned to insure safety.¹³ The proponents rely heavily on injury information gathered by the Commission and other sources. OPA and several industry independents oppose the ban claiming that the injury information is unreliable and does not demonstrate that Class C firecrackers are dangerous. They claim that injuries are caused by misuse and lack of parental supervision and training which can be reduced through proper labeling. Some of the opponents have suggested redesigning the fuse and powder makeup and content. The opponents generally claim that a ban on firecrackers will result in bootlegging and will increase the availability of larger, more dangerous Class B firecrackers. Also they claim that a ban will cause an increase in very dangerous homemade devices. Finally, the opponents generally claim that considerations of patriotism and individual discretion militate against a ban.¹⁴

The State of Hawaii opposes the ban on grounds that a ban imposes an infringement on the religious and cultural rights of its citizens. Staff counsel, HRG, NSPB and APHA support the State of Hawaii position insofar as it claims that a ban is an infringement on religious

rights. They do not, however, support Hawaii's claim that the use of firecrackers is constitutionally protected but instead support a narrow exemption to the ban allowing distribution for religious uses.

The presiding officer found, *inter alia*, that injuries caused by firecrackers generally resulted from misuse and the lack of parental supervision and training. He also found that a strong desire existed among the citizenry to utilize firecrackers for religious, patriotic, cultural and recreational uses. He opined that regulation was more properly confined to local government. Finally, he was of the opinion that, aside from misuse, firecrackers could be relabeled and redesigned to permit greater safety. He recommended that the regulation be amended to require a fuse complying with the original requirements of § 1507.3 and in which the burning point is visible as well as a reduction of the permissible limit of flashpowder to 1.2 grains or the allowance of an allegedly less dangerous blackpowder of up to 2.0 grains.

At the hearings, evidence was received on several matters bearing on the issues posed by the ban. In addition to injury information, testimony was received concerning the enforceability of a ban, potential bootlegging, construction of homemade devices, religious uses, cultural uses and a wide range of related matters.

A firecracker is a device consisting of an explosive pyrotechnic composition in a fused container whose primary function is to produce an audible effect.¹⁵ Under existing FHSA regulation, Class C firecrackers¹⁶ with pyrotechnic composition of up to 2.0 grains are permissible, 16 CFR 1500.17(a)(3). The record demonstrates that firecrackers sold in this country are generally imported from oriental countries. The devices are usually handmade with variations in powder content, fuse characteristics, length, diameter and color. Production sizes range from 5/8 of an inch to 1 1/2 inches in length with a diameter of up to 1/4 inch.¹⁷

The most common production units are the 1 1/2" size (common firecracker) and the 3/8" unit (ladyfinger). Powder content varies considerably. The commonly marketed 1 1/2" firecracker usually has approximately 2 grains (130 milligrams) of powder. The 3/8" ladyfinger¹⁸ commonly has approximately 50 milligrams of powder. The record demonstrates that the lack of uniformity in

¹¹ Apart from the jurisdictional application is the authority under the FHSA to issue regulations other than labeling or a total ban. Although raised in the objections, this question was not further pursued by the parties. Both the legislative history of the FHSA and judicial interpretations of this and other regulatory schemes support the authority to issue general prescriptive regulations. See H.R. Rep. No. 2166, 89th Cong., 2d Sess. 1-2 (1966); S. Rep. No. 91-237, 91st Cong., 1st Sess. p. 6 (1969) and see generally, *Joseph Tuchinsky v. CPSC*, F. Supp. ----, 1 CCH Product Safety Guide paragraph 75,066 (D.C.D.C. Nov. 14, 1974); *Mourning v. Family Publications Service, Inc.*, 411 U.S. 356 (1973); *American Trucking Assn. v. United States* 344 U.S. 298 (1953); *National Petroleum Refiners Assn. v. FTC*, 482 F. 2d 672 (D.C. Cir. 1973).

¹² The ban was also supported on grounds that firecrackers create pollution through smoke, noise and litter.

¹³ Opposition was also based on several other grounds including an alleged lack of statutory authority and the fact that a ban would reduce revenues of certain religious and civic fund raising organizations.

¹⁴ To avoid needless duplication and repetition, many of the statements in this section and hereafter will serve as supplementary findings of fact.

¹⁵ Except where otherwise noted, the discussion in this section is limited to Class C firecrackers presently permitted under FHSA regulation.

¹⁶ The record indicates that common production sizes include 3/8" x 3/8", 1" x 1/4" and 1 1/2" x 1/4". The testimony also indicated that a unit 5/8" x 3/8" had been marketed.

¹⁷ The record indicates that this term is also applied to the smaller 5/8" firecracker which is also known as a "ladyfinger".

¹⁸ Fireworks used for public displays are generally Class B items.

the grain content is due to the manner of production and lack of quality control.¹⁹ The explosive commonly found in firecrackers marketed in this country contains a composition of chlorates or perchlorates, sulphur and aluminum powder.²⁰ This is generally known as "flashpowder". Firecrackers are generally marketed in packages with a central fuse string to which the fuses of individual firecrackers are braided. Packaging ranges from approximately 16 per packet to a thousand and in some cases several thousand. Ignition of individual firecrackers can be accomplished by lighting individual fuses or when available the central fuse string. In the latter case the individual firecrackers ignite as the central fuse ignites the individual fuses. In this situation the individual firecrackers do not ignite simultaneously but rather in a staggered sequence.

Firecrackers containing flashpowder explode through a process known as first order detonation or instantaneous decomposition of the matter contained. Firecrackers containing "blackpowder" explode through deflagration or rapid burning and release of heat and gas in a confined space.

The record reflects that firecrackers are prohibited by local law in at least 32 states.²¹ In some states, including Nebraska and Wyoming, only specific size firecrackers such as a 1" variety or a 3/8" ladyfinger are permitted.²² In some states, where the use of firecrackers is permitted, many local municipalities

have enacted regulations prohibiting their use.²³

Injury data presented at the hearings included statistics from the Commission's National Electronic Injury Surveillance System (NEISS).²⁴ This system provides for reporting from statistically selected hospital emergency rooms throughout the country. Figures received by the NEISS system are statistically extrapolated to provide an estimated number of injuries treated in hospital emergency rooms. In 1974 the Commission issued a report for fourth of July firecrackers and fireworks injuries compiled through the NEISS system covering the period June 18, 1974 through July 31, 1974.²⁵

The 1974 fourth of July report estimated that 3300 fireworks related injuries were treated in emergency rooms during this period, of which, 2050 involved firecracker injuries. This figure includes 550 injuries associated with Class C firecrackers, 200 injuries associated with Class B firecrackers and 1300 injuries associated with firecrackers of unspecified Class. The NEISS data demonstrates that in 1974 firecrackers of all Classes were involved in approximately 60 percent of all injuries related to fireworks. NEISS data as well as other evidence demonstrate that firecracker injuries have declined in recent years. The testimony indicates that this is due in part to more stringent state regulation and enforcement and the decreased availability of firecrackers resulting from the instant regulation.

Utilizing the NEISS system, the Commission conducts random in-depth investigations of injuries. Summaries of in-depth investigations of firecracker related injuries indicated that the causes included detonation in the hand, delayed ignition, throwing or dropping an ignited firecracker which detonated near the victim, and firecrackers which exploded in cans or bottles. Many of the injuries involved misuse although several were due to malfunction. The type of injury usually involved lacerations, avulsions, contusions, abrasions, burns and various eye disorders.²⁶ Victims were predomi-

nantly children and teenagers. Although no definite conclusion can be drawn as to what size firecracker causes a specific type of injury, the information contained in the in-depth reports demonstrates a correlation between the degree of injury and the explosive power of the firecracker which was involved in the injury. Most cases involving severe injuries and deaths were caused by firecrackers or homemade devices with large powder accumulations. Although larger Class B devices are clearly more dangerous and result in more severe injuries, the record is convincing that Class C firecrackers, and particularly the 1 1/2" variety, do cause serious injury.²⁷

Opponents to the ban have argued that the NEISS statistics are unreliable because a large concentration of the reporting hospitals are in states where firecrackers and fireworks are illegal. It is argued that because firecrackers and fireworks are banned in many of these states, the populace is not trained in their use, thus resulting in more injuries.²⁸ This theory is based primarily on opinion and is highly questionable. Even if true, it clearly does not demonstrate that firecrackers and fireworks are safe, nor does it indicate that the Commission should not regulate.²⁹ Indeed data obtained from other sources confirms that substantial numbers of injuries caused by firecrackers and fireworks occur in states where these items are legal. In any event, as noted, *supra*, the Commission is not confined to regulation on the basis of body counts.

The evidence of record indicates that a strong probability exists that any ban on firecrackers will increase the availability and use of illegal and homemade devices. Many of the witnesses noted that regulation will not suppress the desire of persons who wish to use firecrackers and that a ban will merely force the firecracker market underground. In this regard the evidence indicates that clandestine sales or bootlegging is a common problem in states where firecrackers are prohibited. The bootlegging problem has the potential for causing serious injuries since bootleggers, faced with the same penalty regardless of size of the device distributed, are likely to deal in larger

¹⁹ An analysis of sample units made by Commission experts of items obtained from Mike's Fireworks indicated that the average powder content of certain 1 1/2" firecrackers was 1.2 grains and of 3/8" ladyfingers was .71 grains. The testimony indicated that ladyfingers generally have 50 milligrams of powder which converts to .772 grains.

²⁰ In some instances the sulphur is omitted. Also some firecrackers have nitrates, sulfites and other compounds. The so called "blackpowder" firecracker generally contains potassium nitrate, sulphur powder, carbon powder, and other compounds.

²¹ The FHSA does not preempt more stringent regulation by states except in the case of labeling. See section 18(b), FHSA, and 16 CFR 1500.7. Proposed amendments to the FHSA were passed by both houses of Congress in the last session which would provide a federal preemption of all state regulation. Both bills, however, contain versions for an exemption for state and local regulations which are more stringent and not inconsistent with federal regulations. See S. 644, 121 Cong. Rec. S. 13042 (daily ed. July 18, 1975) and H.R. 6844, 121 Cong. Rec. 10216 (daily ed. October 23, 1975). The bills are presently in conference.

²² Nebraska permits the use of ladyfingers not exceeding 3/8" in length or 1/8" in diameter with a pyrotechnic composition of up to .5 of a grain in weight. Neb. Laws, Section 28-1003.7 (1974 supp.). Wyoming permits firecrackers of up to 1" in length and 1/8" in diameter with explosive content not to exceed .25 grams. Wyo. Laws, Section 35-469 (1957 ed.). Since the .25 gram allowance exceeds the FHSA permissible limit of 2.0 grains, distribution in interstate commerce of firecrackers intended for household use which are permissible under the state law would violate existing federal regulation.

²³ Regulations enacted by states and municipalities vary widely. Some jurisdictions have enacted the so called "model law" which prohibits the use of all Class C firecrackers and fireworks except those used for public display purposes. Others have adopted the so called "safe and sane" regulation which generally prohibits firecrackers but allows many non-projectile fireworks. Still others have variations with specific exclusions and time periods during which sale or use is permitted.

²⁴ Other injury data included a hazard analysis of fireworks injuries prepared by the Commission staff in November 1973; information from the National Fire Protection Association, National Society for the Prevention of Blindness, hearings before National Commission on Product Safety, Illinois Department of Health, various hospitals in Hawaii, and various medical journals.

²⁵ The record indicates that outside of Hawaii, this is the period when firecrackers and fireworks are most extensively utilized.

²⁶ As noted, *infra*, fireworks devices other than firecrackers generally produce burn injuries.

²⁷ In addition to immediate injuries, the record indicates that where used extensively as in Hawaii, firecrackers create conditions which aggravate asthmatic and other respiratory ailments.

²⁸ The Commission has no authority to regulate on a regional basis. It can and should act on a national basis where there is a showing that large numbers of citizens are being injured, even if the concentration of injuries appears regional.

²⁹ The opponents' argument appears to be self defeating. Even if it were true that injuries are concentrated in areas where firecrackers and fireworks are illegal, this would support rather than defeat the need for national regulation. In this regard the record soundly establishes that a great portion of firecrackers and fireworks which are utilized in jurisdictions where their sale and use are prohibited have been purchased or obtained in jurisdictions where their sale is legal. The only way this situation can be remedied is through nationwide regulation.

firecrackers such as Class B items. Also, the testimony demonstrates that a ban will increase the incidence of homemade devices, posing a danger perhaps more severe than production firecrackers. The evidence indicates that injuries frequently occur while the homemade devices are being constructed as well as when they are detonated. Also, the devices constructed commonly are more powerful than available production items. Finally, the evidence demonstrates that chemicals and fuses necessary for construction of homemade devices are easily obtainable.

The challenge raised by the State of Hawaii to protect the religious use of firecrackers by the Chinese-American community is particularly significant and convincing. Staff counsel, HRG, NSPB and APHA supported Hawaii on this question as did the APA. The record discloses that firecrackers are an important part of religious ceremonies, including the Chinese New Year, the Ching Ming festival, weddings, birthdays, baby parties, funerals, and various other occasions. The record further demonstrates that use of firecrackers for religious purposes is deeply rooted in tradition with a long standing, centuries old history. The Commission is convinced from the record that the religious use is sincere and necessary.

In addition to the religious use, Hawaii takes the position that it would be illegal to restrict the cultural use of firecrackers. The record demonstrates that in Hawaii firecrackers are used extensively by many citizens, including those of occidental ancestry, for events and celebrations which include the fourth of July and the Gregorian calendar New Years eve. The record further demonstrates that firecrackers are also utilized in many other parts of the country both where legal and illegal for patriotic expression and for recreational purposes. Outside of Hawaii and localities with large Chinese-American populations, the use of firecrackers is generally concentrated during the period around the fourth of July.

Staff counsel and HRG have supported a narrow exemption to the ban which would allow firecrackers to be distributed for religious uses. The suggested procedure is through a permit and distribution system at the state and/or local level. The existence of an exemption and a permit procedure raises serious problems. First, a permit and distribution system, while perhaps possible and workable in places like Hawaii and California where there are large concentrations of Chinese-Americans, does not solve the problem in jurisdictions where only a small number of such persons live. The Commission has no authority to require state or local governments to set up or operate such a system and therefore has no guarantee that a system will be established for such persons. The possibility of a federal permit and distribution system has been considered, but it is believed that establishment and administration would be extremely difficult.

Without a permit and closely regulated distribution system, the allowance of an exemption could lead to serious abuse and could create serious enforcement problems. In this regard the record indicates that prior to the existing agricultural exemption,²⁰ an exemption for certain Class B items permitted for agricultural purposes did not include a permit or distribution system. It was found that because distribution was through commercial sources, many of the devices were sold to the general public. Also, the FDA had problems enforcing the regulation because of difficulty in proving that the devices were intended for household use.²¹ The current agricultural exemption, which includes both a permit and a distribution system, has to a great extent remedied the problem.²² Apart from the agricultural exemption the record further indicates that a permit system without an accompanying distribution system leads to abuse. In San Francisco and Hawaii, where permit systems exist for Class C firecrackers, distribution to the general public has been widespread.

Finally, the most difficult and perhaps insurmountable problem is determining what in fact is a *bona fide* religious use. In this regard the record developed in Hawaii indicates that firecrackers are utilized by Chinese-Americans for various purposes which from a western point of view may not be considered religious but from an eastern vantage point clearly have religious significance and overtones. It appears difficult, if not impossible, to ascertain which practices are to be considered religious. For example, from a western point of view the use of firecrackers at wedding ceremonies and funerals might appear to have religious significance, while a Chinese-American businessman exploding firecrackers when opening a new shop would not. These same practices from an eastern viewpoint are indistinguishable. Similarly, the use of firecrackers by occidentals on New Years Eve and the Fourth of July would normally be viewed as a non-religious use. The use by Chinese-Americans at the same events may carry religious significance. Indeed, the use of firecrackers by the Chinese-Americans at these events does not appear distinguishable from many other uses such as weddings or other celebrations. The record clearly demonstrates that western concepts of religion simply cannot be applied to eastern practices with respect to the use of firecrackers. The use of firecrackers by Chinese-Americans appears to be a fusion of religion, tradition, beliefs and practices loosely classified as "culture."

The magnitude of the enforcement problems engendered by a religious exemption can not be overstated. First,

someone would have to make a determination that an intended use is in fact a religious use. As noted above this is difficult, if not impossible. The result undoubtedly would mean widespread and perhaps indiscriminate distribution. Moreover any enforcement action by the Commission would require proof that the firecrackers were intended for a non-religious use. If a religious exemption were to exist the anomalous and very unpopular result could occur where one ethnic group would be allowed to utilize firecrackers to celebrate an occasion such as New Years eve or the fourth of July, while the rest of the population would be prohibited from the same practice. While it is recognized that as a practical matter these problems might be confined to Hawaii, there is no assurance that the same problems would not extend to the mainland, particularly in jurisdictions with a large population of Chinese-Americans.

Akin to the problem of administering an exemption is the general problem of enforcing a ban. The Commission currently enforces the 2.0 grain limit through criminal prosecutions and seizure actions. Cases are mainly based on purchases by undercover agents. If illegal distribution were to be increased as a result of a ban, which the record indicates is likely to occur, substantial increases in resources would have to be allocated to enforce the regulation effectively. It is questionable whether such an increase could realistically be provided.

Because of the conflicting claims and interests, the decision as to whether or not to retain the ban is difficult. On the one hand, the Commission must fulfill its Congressional mandate to protect the public health and safety. On the other hand, the Commission finds that it must accommodate the religious needs of the Chinese-American community. Also weighing heavily are the problems which could result from a ban, including bootlegging, the increase of homemade devices and the problems of enforceability. Finally, the Commission must consider the desire of many citizens to use firecrackers for patriotic expression, cultural purposes and recreation. Given these considerations, the Commission has decided to permit the distribution in interstate commerce of those firecrackers intended or packaged for use in the household which have a pyrotechnic composition of 50 milligrams (.772 grains) or less by weight.²³ This figure comports with the powder content of the commonly produced 3/8" ladyfinger. By lowering the permissible explosive content, the potential for serious injury is clearly reduced. As noted above the degree and nature of injuries reported vary in accordance with the explosive content of the devices. Although it is difficult to determine from the injury data which Class C firecrackers have caused a specific injury, the lack of confirmed injuries from smaller firecrackers such as ladyfingers is evi-

²⁰ 16 CFR 1500.17(3) (1)

²¹ See *United States v. Chalaire*, 316 F. Supp. 543 (E.D. La. 1970)

²² The current agricultural exemption is administered by the Department of Interior and various state agricultural and wildlife agencies. Under this exemption the governmental unit both issues a permit and distributes the Class B firecrackers.

²³ In accordance with recent efforts to conform to metric units, the regulation will include metric as well as English equivalents.

dent. Although it is recognized that many of the injury reports do not specify the size of firecracker involved, the number of injuries where the size is reported demonstrates that the 1½" firecrackers do cause more injuries than the smaller varieties. In addition to the injury information, both the expert testimony and common sense demonstrate that the hazard posed varies with the explosive content of the firecracker. Indeed, even the most active participants opposing the ban, OPA and Mikes Fireworks and Toys, Inc., consistently adhered to the position that reduction in the allowable explosive content would reduce the hazard posed by firecrackers.

Allowance of the less powerful firecrackers, while providing greater safety to the general public, also appears to satisfy the religious needs of the Chinese-American population as well as the desire of many citizens to utilize firecrackers for cultural, patriotic and other purposes. In light of its decision not to ban the distribution of all firecrackers, the Commission believes it is unnecessary to decide whether a ban would run afoul of Constitutional requirements.³⁴ The decision herein to limit the maximum explosive powder content does not appear to raise any Constitutional problems. The record does not indicate that the smaller firecrackers will not satisfy the religious needs of the Chinese-American community. While the testimony indicates that the sight, the sound, the smoke, the shattering transformation, the impact and movement, the color of the paper and the number of firecrackers detonated may have some significance, a specific decibel level, blast force or pyrotechnic composition is not required. Further, while it is recognized that historically the 1½" common firecracker has been utilized for religious ceremonies, there was no showing that this particular firecracker is necessary. Indeed the record indicates that many sizes of firecrackers are utilized in religious ceremonies including the ⅞" ladyfinger.³⁵

The difficult and perhaps unworkable problem of establishing an exemption with its potential for serious abuse and enforcement problems is obviated by al-

lowance of smaller firecrackers. Also, the problem of bootlegging associated with a ban will, to some extent, be reduced by allowance of the smaller firecracker. In this regard the testimony indicates that in Nebraska the bootlegging problem was reduced when that state repealed a ban and permitted the use of ladyfingers. The Commission is convinced and the record demonstrates that the availability of some form of firecracker will satisfy the desires of many persons and will prevent a ready market for bootleg devices which possibly would be more powerful and more likely to cause injury.

Although the Commission can to some degree regulate to reduce injury, it cannot eliminate all injuries. As noted, *supra*, the Commission has no jurisdiction under the FHSA to regulate firecrackers intended and packaged for non-household uses. Also, those with the desire will still be able to construct home-made devices. The necessary ingredients are easily obtainable and the Commission cannot, at least within the scope of this proceeding, eliminate or curtail this problem. In the case of such devices which are made from powder obtained from firecrackers, the extraction of powder will at least be more difficult.

The Commission has reviewed the presiding officer's recommendations for firecrackers that the regulation require a visibly burning fuse and either a 1.2 grain limit for flashpowder or a 2.0 grain limit for blackpowder and specific labeling.³⁶ Insofar as the limitation on flashpowder, the Commission is in agreement with the underlying basis of the recommendation. The specification of 1.2 grains, however, does not appear to have any reasonable basis or support in the record. The limit does not comport with any common production unit. It appears that the figure was derived from certain demonstration units obtained from only one of the parties. The Commission believes that the limitation should be geared to a common production unit.

With respect to the blackpowder recommendation, the record is conflicting. Those supporting the proposed change presented opinion testimony that the substance was less dangerous than flashpowder. Opposing testimony indicated that no such safety benefit could be assured. Some rather hurried animal testing performed by the Commission staff did not demonstrate blackpowder firecrackers to be any less dangerous than those containing flashpowder. The testimony indicated that the manner in which the chemical ingredients are processed, as well as the quality of the casing, have a bearing on the performance. Substantial variation in formulations and manufacturing characteristics exist. The recommendation does not include any technical processing specifications.

³⁶The recommendations insofar as they apply to fuses and labeling are discussed in Parts D and E *infra*. In light of the Commission decision regarding fuses and the allowance of flashpowder firecrackers which contain chlorates or perchlorates, firecrackers allowable under section 1500 will be exempt from the provisions of Section 1507.

The testimony indicated that because of the lack of quality control by manufacturers in the orient, processing specifications could not be met. Insofar as injury data is concerned, the record indicates that in Canada where blackpowder firecrackers were permitted at one time, significant numbers of injuries were still reported.

As there is no basis in the record to support the proposition that firecrackers containing 2.0 grains of blackpowder are any less dangerous than a firecracker containing 2.0 grains of flashpowder the Commission believes the recommendation should be rejected.³⁷ It should be noted, however, that the regulation adopted by the Commission does not distinguish between blackpowder and flashpowder but only refers to pyrotechnic composition. Accordingly manufacturers are free to utilize blackpowder up to the permissible limit.

E. Fireworks devices. The Commission's regulation set forth certain performance standards for fireworks devices other than firecrackers. Parts of the regulation, including a ban on certain chemicals, requirements to prevent pyrotechnic leakage, standards for wheel devices and for party poppers, were not contested.³⁸ Other parts of the regulation, including the requirements to prevent burnout and blowout, fuse requirements, base requirements, provisions for handles and spikes, provisions for rockets with sticks, and the language of the regulation for toy smoke and flitter devices, were subject to various objections. In addition to suggestions made by the parties, the presiding officer suggested various changes in the regulations, some of which are adopted and some of which are rejected.

The record pertaining to fireworks devices not including firecrackers bears out the Commission's initial position that various performance standards can reduce injuries. This is particularly the case for devices which cause injury through malfunction.

As the record indicates, the performance standards were based in large part on the causes of injury revealed in injury data compiled by the Commission. The data reveals that many injuries occur as a result of simple malfunctions such as fuses which burn too slowly or too rapidly. The data also discloses that injuries result from misuse, however, not

³⁷In addition to the problems noted in the text, the recommendations arising out of the reopened hearing suffer from certain procedural irregularities. The hearing, at which the Microcord M-50 fuse and the blackpowder firecrackers were introduced, was hastily convened after the record had been initially closed. It was ordered after objections were raised to references in the brief of Mike's Fireworks and Toys, Inc. The parties did not all receive samples of the fuses or the blackpowder firecrackers in sufficient time to prepare for cross examination or testimony in opposition.

³⁸As these provisions were not contested, they will not be discussed herein. The Commission's rationale for promulgating these provisions is set forth in the notice of May 16, 1974, 39 FR 17435, and is adopted herein by reference.

³⁴The State of Hawaii claims that both religious and cultural uses of firecrackers are protected by the First Amendment to the Constitution. The arguments raised are that religious use is protected under the clause prohibiting infringement on the free exercise of religion while cultural uses are protected by the freedom of speech clause. The authorities cited in support of religious use appear to require that the practice must be an integral part of or play a central role in, the religion and its ceremonies. They do not establish the proposition that the government may never limit any practice which is injurious to the health and safety of the public. See *Reynolds v. United States*, 98 U.S. 145 (1878). Authorities cited in support of non-religious use based on the free speech clause are less in point. However, as noted, *supra*, the record developed in Hawaii indicates that in many cases the line between religious and non-religious uses is indeed thin.

³⁵In this regard the burden of proof required under 21 CFR 2.63 has not been met.

as extensively as in the case of firecrackers. The in-depth summaries included in the Commission's 1973 hazard analysis for the period June 1, 1972 through July 31, 1973 indicate that approximately one-half of the injuries associated with fireworks devices other than firecrackers were caused by malfunction. Similarly, the 1974 NEISS fourth of July summaries indicate that at least one-third of the injuries were due to malfunction. The injury data again show that the predominant number of victims are children. The types of injuries, although including many of the same types as firecrackers, are primarily burns.³⁰

The record indicates that the parties, in many instances, are in agreement that some regulation is necessary to reduce injuries caused by malfunction of the devices, although they disagree as to the specific manner of how it can be achieved. As the particular requirements are directed to different purposes, they will be discussed separately.

1. *Fuses.* The fuse provision as originally promulgated includes three essential requirements: (a) That they be treated or coated to reduce the possibility of side ignition;³¹ (b) that they burn at least 3 seconds but not more than 6 seconds; and (c) that they be securely attached in accordance with specific requirements. Of these provisions, the first two were the subject of an objection by OPA in its initial filing with the Commission claiming that the provisions were too imprecise for regulatory language and did not include precise test methods, deviation tolerances or deviation acceptance levels. The objection was apparently abandoned, however, as the exceptions filed by OPA to the presiding officer's report advance support for all three of the original provisions. The presiding officer in his recommendation included four further requirements: a visible burning point, a specification for adhesion material, color coding to facilitate tracing of the firework to the manufacturer, and packing of fireworks for shipment so as to minimize the possibility of damage to fuses and other components in transit.³²

The record demonstrates that "side ignition", or the premature ignition of a fuse from the side rather than the tip from sparks or other sources, is a frequent problem which can cause injury. Side ignition can be caused accidentally from sparks or cigarette ashes. The required treatment reduces the possibility of such an occurrence. The record indi-

cates that the technology for a treatment which will satisfy this requirement is readily available and it is believed that the language is sufficiently precise to be understood and applied. The 3-6 second burning requirement is a provision which will help remedy the frequent hazard of premature or delayed ignition. The injury data indicates that this is perhaps the most widespread malfunction leading directly to injury. The record indicates that manufacturers are able to comply with this requirement and that many are already utilizing a "safety fuse" which complies with the requirements. The evidence does not demonstrate that the provision is imprecise or that a precision test method, specific deviation tolerance or any deviation acceptance level are necessary.

The recommendation regarding a fuse with a visible burning point has merit. At the reopened hearing there was testimony that the fuses which comply with the side ignition and delay features of the requirement could pose another danger since the actual point of burning may be ahead of the visible flame. At the reopened hearing a new type of fuse which had not previously been considered was introduced. The primary feature of the fuse is that the actual burning point is visible. The fuse, known as the "Microcord M-50", was introduced by a representative of Phoenix Fuse, Ltd., which, at the time of the hearing, had a patent application on the device pending. According to the testimony of the developer, it had been introduced in April, 1974, and was developed 13 months prior to the hearing. He further indicated that the fuse was not then utilized with Class C firecrackers or fireworks but that it could be utilized with such devices including the very small items. Demonstrations of the fuse attached to certain devices were not always successful. The record also indicates that because of its construction, the "Microcord M-50" might not comply with the side ignition requirement. While the Commission is desirous of including requirements which will provide the public with the safest possible fusing device, the evidence of record is insufficient at this time to adopt the recommendation to incorporate it into a mandatory standard.³³ To do so would require that there be strong evidence that it will work with Class C devices, that it will not create new problems and that it is available to the industry. The record provides no such assurances. The only witness to testify in support of this requirement was its developer who obviously has a vested interest in its success. No adequate scientific or other expert testimony was presented. While the Commission does not wish to discourage innovations such as the "Microcord M-50", it simply cannot regulate on the basis of speculation. If after further study and testing the device can be shown to comply with other provisions, to increase safety and to be

available to the industry, the Commission will welcome a petition to amend the regulation.³⁴

The recommendation regarding color coding for fuses to allow the various fireworks to be traced to a specific manufacturer is based on testimony received from a witness at the reopened hearing that this will help stop bootlegging. The witness testified that there are only three manufacturers of safety fuses in this country. He surmised that by color coding it would be possible to trace illicit devices by finding the original purchaser of the fuse. No other testimony in support of this requirement was received. The Commission believes that this recommendation is not substantiated by the record. There is no showing beyond the one witness that such a process is workable, necessary or desirable. The value of such a system could only be determined by persons involved in the enforcement of the regulations.

Finally, the presiding officer recommended a specific adhesive criterion for fuses which would not deteriorate the chemicals in the fuse over long time periods. The witness from Phoenix Fuse indicated that adhesives currently used have a tendency to destroy certain chemicals in the fuse over long time periods thus destroying the quality of the fuse. Although this suggestion may have merit, it was again only advanced through the testimony of one witness, and was not substantiated by any other evidence. Further testing, information and evidence is necessary to include the provision in a mandatory standard.

2. *Bases.* The Commission's original proposal with respect to bases was to require those devices operating in a standing upright position to have a minimum horizontal dimension or the diameter of the base equal to at least one-third of the height of the device. The purpose of this requirement is to enhance the stability of such devices thus preventing injuries caused by the devices falling over and shooting off in the direction of bystanders. OPA objected, seeking clarification as to whether the measurement should begin at the top or bottom of the base and whether caps should be included. The presiding officer recommended that the provision be clarified so as to include the base or cap. No exception to this modification was noted.

³⁰ The recommendation that a fuse complying with section 1507.3 be required for firecrackers apparently stems from the testimony of the Phoenix witness who stated that the "Microcord M-50" fuse could be utilized in all firecrackers including the small ladyfingers. Other testimony as to whether a complying fuse was technologically possible or economically feasible was confusing if not conflicting. The only common thread to be gleaned is that such fuses are not currently utilized in production units. In light of this fact the Commission believes that the firecrackers permitted under the regulation should not be subject to the fusing requirements of section 1507.3. As the fusing requirement has obvious merit for firecrackers as well as other fireworks, the Commission encourages additional study and testing with a view towards amending the regulation to include such a requirement.

³⁰ The record also indicates that fireworks of various types including firecrackers are responsible for a great number of fires which result in injury as well as property damage.

³¹ Devices such as ground spinners that require a restricted orifice for proper thrust and containing less than 6 grams of pyrotechnic composition are exempted from this requirement.

³² The recommendation also advised dropping of the exemption for devices with a restricted orifice on the basis that a fuse which would comply with all the requirements was available for use with such devices.

³³ Also, as noted, *supra* at note 37, the Commission is concerned that the evidence arising out of the reopened hearing may have violated the procedural rights of the parties.

The Commission agrees that this clarification is helpful and adopts the clarifying language.

The presiding officer further modified the base requirement as follows:

The base shall be so designed as to enhance stability when the firework is pressed into soft ground. For this purpose a square plastic ridge enclosing a solid circular area seated directly under the cylindrical firework is suitable.

This recommendation was based on testimony received at the Kansas City hearings. Exceptions were taken to this requirement mainly by APA and OPA on the grounds that the manufacturers should have discretion to construct a base which will provide the best stability for any given device. They argue that in some cases a heavier wooden base would provide better stability because of a heavier center of gravity. Finally, it is argued that a specific design requirement is contrary to the Commission's policy in the regulation of establishing performance standards as opposed to design standards. Although the Commission sees merit to the recommended base, it agrees that this specific base requirement should not be included as a mandatory standard. By mandating such a provision, the Commission would possibly be sacrificing safety for the sake of form. Accordingly the Commission believes that the regulation as initially proposed is adequate.

APA has further taken exception to the base requirement, urging that the Commission exempt smaller items (less than 6 grams of pyrotechnic composition) from the regulation. It argues that some smaller devices presently have bases slightly below the standard. It argues that there is no evidence in the record to indicate that substantial compliance with the base diameter requirement would pose any safety hazard. APA offered proposed language to exempt those smaller items manufactured prior to the effective date of the regulation. APA's objection appears to be directed more at lead time than to the standard. Apparently a substantial inventory of these smaller items was being held. Since the effective date of this regulation is over two years after the original publication it would appear that the inventory of these smaller devices has been depleted and the need for a further exemption is no longer necessary.

The Commission believes the standard should not be altered to exempt these devices. Such alteration would create an enforcement problem since the Commission would have to analyze the pyrotechnic composition of such items to determine if they comply with the base requirement. Moreover, although the devices in question may be smaller than other devices with bases, there has been no showing that they are any less dangerous if tipped and allow a shower of sparks to strike the user or a bystander.⁴

⁴ As noted, *supra*, the burden of proof for a proposed change in the regulation rests with the party advocating such change.

3. *Toy smoke and flitter devices.* The proposed regulation was intended to prevent injuries caused by the confusion between somewhat harmless devices, such as smoke and flitter devices, and very dangerous Class B devices, such as M-80 salutes, silver salutes and cherry bombs. The evidence demonstrated that such confusion could cause serious injury and that regulation was needed. The regulation as proposed: *Provided*, That such devices not be of such color and/or configuration so as to be confused with the banned fireworks. Industry objection was raised to the use of the term "and/or" and suggested a revision to the word "and" only. The industry argues that so long as either the color or the configuration of the devices is different, then the confusion will be eliminated. The evidence demonstrates that so long as either the color or the configuration is different, the hazard which could be created by confusion would be substantially eliminated. The presiding officer recommended this revision and the Commission agrees that the revision is adequate to protect the safety of the public.

4. *Spikes.* The regulation as published included a standard for devices utilizing spikes. No objections were raised to the proposal, however, the presiding officer recommended a change in the provision which would eliminate metal spikes and which would eliminate a blunt tip requirement. The purpose, as stated in the opinion of the presiding officer, is to make certain that spikes would be suitable for insertion into hard ground and to eliminate the possibility of persons holding such devices in their hands. As no objection was originally made to this proposal, the Commission is of the opinion that the recommended change is outside the scope of this proceeding. In any event, the recommended language does not appear adequate to deal with the problem raised by the presiding officer. The Commission believes that further study may be necessary to draft a regulation to deal with this problem. As noted *supra*, the Commission considers this regulation to be subject to continuing refinement.

5. *Burnout and blowout.* OPA initially objected to the provision of § 1507.6 which requires that "the pyrotechnic chamber in fireworks devices shall be constructed in a manner to allow functioning in a normal manner without burnout or blowout". The objection apparently was based on the meaning of the terms "burnout" and "blowout". The presiding officer recommended adoption of the provision and OPA did not take exception other than to preserve its original objection.

The record indicates that the term "burnout" applies to a non-exploding device and occurs when the flame comes out of a place other than its intended orifice. A "blowout" occurs when there is an unintentional explosion or bursting of the device. The record further indicates that the terms are readily understood by the industry and no showing was made that the requirements could not be satisfied.

6. *Colored sparklers and hand held roman candles.* Although not specifically proposed in the regulation, the presiding officer recommended that colored sparklers and hand held Roman candles be banned. The record indicates that two types of sparkler, "gold" and "colored", are marketed in this country. The "colored" sparklers contain chlorates or perchlorates whereas the "gold" variety do not. The "colored" sparklers have a larger flame than the "gold". All sparklers burn at temperatures from 1200 to 2000 degrees Fahrenheit. While all sparklers can cause injury, it is believed by some witnesses that the "colored" variety are more dangerous than the "gold".

The recommendation regarding Roman candles stems from testimony that it is dangerous to hold the devices while using them. The record indicates that Roman candles are sold with and without spikes for insertion into the ground. The labeling requirements of § 1500.14 warn, *inter alia*, "Stick butt end in ground" and "Do not hold in hand." The presiding officer states that the labeling language, in effect, proposes a ban on Roman candles designed to be held in the hand.

Exceptions were taken to the recommendations concerning both the "colored" sparklers and the hand held Roman candles. The Commission disagrees with the proposition that the labeling language of section 1500.14 can be interpreted as a ban on hand held Roman candles. The labeling provision clearly does not provide adequate public notice of an intention to ban the devices. As was published for either "colored" sparklers or hand held Roman candles, the Commission believes the recommendations are outside the scope of this proceeding and rejects the same for lack of public notice. The Commission notes that it finds merit in the suggestions of the presiding officer and will further study them with a view towards amending the regulation.

F. *Labeling.* Section 1500.14 of the regulation includes "special" labeling requirements for various fireworks devices in addition to those required by section 2(p) of the FHSA. Objections to the provision were based on the need for adequate lead time and the fact that the labeling provisions were inadequate. During the Kansas City hearings testimony was presented on the labeling question. Mike Koska of Mike's Fireworks and Toys made several suggestions to amend the labeling provisions which would apply sterner language primarily aimed at adults which would caution against use by small or unsupervised children. OPA and APA advanced the position that the use of the word "close" in the term "use only under close adult supervision" was unnecessary and that the industry had substantial supplies of labels and fireworks not including the word "close" in the phrase.

The presiding officer principally adopted the changes advanced by Mike's Fireworks and Toys, Inc. The recommendation as embodied in the summary to the report provides as follows:

(a) Class C fireworks labeling should be printed in bold face type with large lettering accompanied by an appropriate symbol denoting the type of danger involved (e.g., explosive or incendiary); labeling should be addressed to adults rather than children and include a warning against injury by misuse, and an injunction against use by children under 14 years of age unless closely supervised by adults.

(b) All Class C fireworks except party poppers should be labeled so as to enjoin children from holding the device in hand except under close supervision of adults.

In the detailed portion of the report it was recommended that the phrase:

USE ONLY UNDER CLOSE ADULT SUPERVISION.

be eliminated and the following substitution made:

(APPROPRIATE SYMBOL)—"DANGER—MISUSE MAY CAUSE INJURY—NOT RECOMMENDED FOR USE BY CHILDREN UNDER 14 YEARS UNLESS CLOSELY SUPERVISED BY ADULTS"

For projectile type fireworks the recommended labeling would provide:

DO NOT PERMIT CHILDREN TO HOLD IN HAND UNLESS CLOSELY SUPERVISED BY ADULTS

Finally the recommendation for "party poppers" would substitute the following as the only labeling requirement:

DO NOT POINT EITHER END TOWARD FACE OR OTHER PERSON

While the commission finds that the suggestions embodied in the presiding officer's report may be helpful, it is believed that insufficient information was developed to justify a substantial alteration of the labeling requirements from the original proposal. The testimony on which the recommendation is based is essentially opinion and is not confirmed by any psychological evidence.⁴⁵ The recommendation also suffers from the fact that it may be inconsistent with other FHSA regulations. Thus type sizes for labeling are governed by an existing regulation. See 16 CFR 1500.121. Also, the suggestion that a symbol be utilized is not accompanied by a suggested symbol.

Finally, the record indicates that many manufacturers are already complying with the labeling requirements of the May 16, 1974 order. The adoption of new provisions would render much of their current inventory "misbranded hazardous substances."

Based on the foregoing it is believed that further study and analysis is needed to justify substantial changes in the labeling requirements. This could be ac-

⁴⁵ The rejection of the recommendations regarding labeling does not mean that the opinions expressed by Mr. Koska and others are not valid. Indeed, many of the suggestions made are useful and will guide the Commission in further implementing labeling regulations. The Task of designing effective labeling goes beyond the language utilized and depends on the point of placement, the number of words, the type size and type face as well as various other considerations. The record herein amply demonstrates the need to fully reexamine fireworks labeling.

complished in a further "notice and comment" type of rulemaking proceeding under section 3(b) of the FHSA.

The request of the industry to omit the word "close" from the phrase "use only under close adult supervision" does not appear to create any serious hazard. The record does not demonstrate that the term "close" will provide any great safety benefit. The Commission will thus allow the term to be omitted or included at the option of the manufacturer.

In light of the fact that no requirement for labeling of firecrackers was proposed, the Commission does not believe that any "special" requirement should be imposed at this time, but should be the subject of further study along with all fireworks labeling. Pending further determination, firecrackers labeling must comply with the provisions of section 2(p), FHSA and applicable regulations including 16 CFR 1500.14(b) (7)(xv) and 16 CFR 1500.121. To the extent that the language recommended by the presiding officer complies with these provisions, the same may be utilized.

G. *Environmental aspects.* In accordance with the mandate of the National Environmental Policy Act, 42 U.S.C. 4321 et seq. and the guidelines of the Council on Environmental Quality, 40 CFR Part 1500, the Commission has reviewed the regulation and the record for environmental consequences. It is concluded that the regulation is not "major federal action significantly affecting the human environment."

At the outset it is apparent that the regulation will not substantially alter the status quo insofar as the use of fireworks is concerned. The regulation is designed solely to increase the safety of the public using or exposed to the use of firecrackers and fireworks. While the record developed in Hawaii does indicate that fireworks and principally firecrackers create certain environmental hazards including litter, noise, and conditions which aggravate asthmatic and other respiratory conditions,⁴⁶ such hazards pre-exist the present regulation and are not increased by it. If anything the regulation which reduces the allowable pyrotechnic composition in firecrackers may serve to reduce the noise level.

The record notes that many fires are caused by the use of fireworks devices. Again this problem predates the regulation. The testimony indicates that the performance requirements of the regulation may to some extent reduce the number of fires. No information before the Commission indicates that the regulation will significantly affect the use of raw materials used for the manufacture of firecrackers or fireworks devices. The prohibition against the use of certain chemicals only affects a small number of

⁴⁶ The record indicates that these hazards result from the concentrated use of vast numbers of devices during certain celebration periods. The record does not reflect that the conditions found in Hawaii are as prevalent or severe in the continental United States where firecrackers and fireworks are utilized.

Class C fireworks and will not result in any major shift in resource allocations. The Commission has concluded that the adverse environmental consequences are minimal and are outweighed by the significant safety factor gained.

H. *Time for filing exceptions and effective date.* Pursuant to 21 CFR 2.97(b), the Commission will allow 30 days from the date of publication herein for the filing of exceptions to the tentative order. Exceptions may be filed only by parties of record other than staff counsel. All exceptions shall conform to 21 CFR 2.97(b). The Commission will consider the exceptions filed and thereafter will issue rulings thereon and a final order. The Commission presently intends to make the regulation effective in all respects 180 days after publication of its final order.

The original order published May 16, 1974 was to become effective on June 17, 1974. As a result of the objections filed, the order and the effective date have been stayed now for a period of 21 months. The record indicates that at the time of the hearings, some industry members were holding inventories which were not in full compliance with the May 16, 1974 requirements. The testimony further indicates that a large number of manufacturers were at the time of the hearings in compliance with the May 16, 1974 requirements. In their objections and during the course of the proceeding industry participants argued that the original order did not provide adequate lead time to meet the requirements of the regulation. Specifically they argued that sufficient time should be allowed to permit: (1) Depletion of existing non-complying inventory; (2) conversion of manufacturing processes; and (3) allowance for the order-delivery period. Finally, the industry claims that failure to provide adequate lead time will result in severe if not disastrous financial consequences.

The record presented by the industry relating to the order-delivery period is essentially uncontroverted. The record indicates that the order-delivery period ranges from 6 months for domestically produced items to 1 year for some imports. Orders are generally placed to permit delivery for the fourth of July sales season. The effective date tentatively adopted herein will not unduly interfere with current orders and will give ample notice for future orders.

Apart from the claims of industry, the establishment of an effective date is confined by the statutory requirement of section 701(e). The regulations governing this proceeding require that parties be permitted time to except to the provisions of the tentative order not exceeding 60 days. Thereafter the Commission must rule on exceptions and issue its final order. The statute requires that the regulation cannot take effect prior to 90 days after the publication of the final order unless it is specifically found that emergency conditions exist. Given the evidence, the Commission cannot make a finding that emergency conditions exist warranting an earlier effective date.

Because of the lengthy hearing and decisional process required by section 701(e), the complexity of the matters under consideration and the industry order-delivery period, it would have been virtually impossible for the Commission to establish, and for the industry to comply with, an effective date in time for the current fourth of July holiday. Any attempt to establish such a requirement would result in a chaotic enforcement situation whereby products on order with slight variations in the final labeling or performance requirement would be subject to seizure and would subject manufacturers, distributors and retailers to criminal liability notwithstanding the fact that they made every effort to comply with the regulation.⁴⁷ Such a result would be unfair.

In arriving at an exception period of 30 days and a tentative effective date of 180 days from the publication of the final order, the Commission has, within the confines of the strict procedural requirements of section 701(e), sought to balance the practical problems raised with the public's need for safety. The Commission cannot ignore the uncontested evidence presented by the industry, practical enforcement problems, nor the uncertainty which may have resulted from the Commission's decision differing from the recommendations of the presiding officer. At the same time it has endeavored to provide the public with a strong measure of safety within a reasonable and legal time period.

While practical and legal impediments prevent the regulation from taking effect in time for the current Fourth of July celebration, the Commission expects that the industry, although not legally bound, will make every effort to immediately comply with all of the requirements and the spirit of the regulation. The clear evidence that industry has made a good faith effort to comply with the May 16, 1974 requirement supports the Commission's belief, that attempts to conform will be made. While it is recognized that variations in labeling cannot be remedied overnight, efforts to prevent the marketing of firecrackers exceeding the limits of the regulation can and should be made. The public as well can assist in promoting firework safety through prudent selection of devices purchased and supervision of their use. Responsible industry action and public cooperation, can and should make the forthcoming Bicentennial celebration safer for everyone.

As of the effective date, the remedial provisions of the FHSA will be in full force and effect. No exception will be permitted for non-complying inventory regardless of the time or circumstance of manufacture, importation or sale. Any other result would create an impossible enforcement situation and would un-

reasonably hamper the safety benefits to be achieved by the regulation.

I. FINDINGS OF FACT⁴⁸

1. Adequate notice was not given to alert the public that the scope of this proceeding would be enlarged to consider a proposed ban on all fireworks devices or more stringent regulation for fireworks devices.

2. Adequate notice was not given to alert the public that the scope of this proceeding would be enlarged to consider a proposed ban on colored sparklers and hand held roman candles or additional specific performance requirements for fireworks devices with handles and spikes.

3. Firecrackers and other fireworks devices are flammable or combustible and/or generate pressure through decomposition, heat or other means.

4. Firecrackers and other fireworks devices may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use.

5. Information and statistics obtained from the NEISS system are sufficiently accurate and reliable to demonstrate the existence and the causes of injuries resulting from the use of firecrackers and fireworks devices.

6. Information and statistics obtained from sources other than the NEISS system confirms the information obtained through the NEISS system relating to the existence and the causes of injuries resulting from the use of firecrackers and fireworks devices.

7. Firecrackers commonly produced for use in this country include the "common firecracker" which is approximately 1½" in length containing approximately 2.0 grains (130 milligrams) of pyrotechnic composition and the "ladyfinger" which is approximately ¾" in length and containing approximately 50 milligrams (.772 grains) of pyrotechnic composition.

8. Class C firecrackers cause a substantial number of serious injuries.

9. There is a correlation between the nature and degree of injury caused by firecrackers and the amount of explosive powder contained in a given device.

10. Firecrackers of approximately 1½" in length containing approximately 2.0 grains (130 milligrams) of pyrotechnic composition cause more injuries than smaller Class C firecrackers.

11. Only a small number of injuries caused by small firecrackers such as ladyfingers containing 50 milligrams (.772 grains) or less pyrotechnic composition have been reported.

12. The nature and degree of the hazards posed by firecrackers containing pyrotechnic composition in excess of 50 milligrams (.772 grains) cannot be remedied through cautionary labeling.

13. A predominate number of injuries from Class C firecrackers are caused by misuse.

14. A ban on all firecrackers will result in an increase in bootlegging or clandestine sales of firecrackers including larger more dangerous Class B firecrackers.

15. A ban on all firecrackers will increase the incidence of homemade bombs which are in many cases more dangerous than production firecrackers.

16. The allowance of some form of firecracker will to some degree reduce the extent of bootlegging and homemade devices.

17. Use of firecrackers by the Chinese-American community for religious purposes is necessary.

18. A reasonable and workable exemption from a ban on firecrackers for religious purposes cannot be established.

19. The existence of an exemption to a ban on firecrackers for religious purposes would create serious enforcement problems for the Commission.

20. Religious or cultural uses of firecrackers do not require any specific powder content.

21. Firecrackers containing 50 milligrams (.772 grains) of pyrotechnic composition will satisfy religious and cultural needs.

22. Blackpowder firecrackers have not been shown to be safer than flashpowder firecrackers.

23. No showing has been made that the requirements of section 1507 can be satisfactorily applied to firecrackers containing 50 milligrams (.772 grains) or less pyrotechnic composition.

24. A large number of injuries caused by fireworks devices other than firecrackers are caused by malfunction.

25. The language of § 1507.3 relating to fuses is sufficiently precise for regulatory purposes.

26. The fireworks industry is sufficiently able to comply with the requirements of § 1507.3 relating to fuses.

27. No need for precise test methods, deviation tolerances or deviation acceptance levels with respect to the requirements of § 1507.3 have been shown to be necessary.

28. Insufficient evidence exists to include in the regulation a requirement for a fuse with a visible burning point.

29. Insufficient evidence exists to include in the regulation a requirement for color coding of fuses.

30. Insufficient evidence exists to include in the regulation a requirement for adhesives utilized in conjunction with fuses.

31. A clarifying amendment to the base requirements of § 1507.4 including the base or cap for measurement of the height is necessary.

32. Insufficient evidence exists to include in the regulation a requirement that bases for fireworks have a square plastic ridge enclosing a solid circular area seated directly under the cylindrical firework.

33. Insufficient evidence exists to exempt from the base requirement of § 1507.4 fireworks devices with bases containing 6 grams or less pyrotechnic composition.

34. An amendment to the requirement of § 1507.9(b) for toy smoke and flitter devices to provide that such devices shall not be of such color and configuration so as to be confused with banned fireworks is reasonable and will not create any significant safety hazard.

35. Insufficient evidence exists to amend the requirement contained in § 1507.7 for handles and spikes.

36. The terms "burnout" and "blowout" contained in § 1507.6 of the regulation are widely understood and used in the industry and are sufficiently precise for regulatory language.

37. No showing has been made that the industry is unable to comply with the "burnout" and "blowout" requirements of § 1507.6.

38. An amendment to the labeling requirements of § 1500.14 allowing the optional use of the word *close* from the phrase "Use only under close adult supervision" is reasonable and will not create any significant safety hazard.

39. Insufficient evidence exists to amend the labeling requirements of § 1500.14 in any respect other than the optional allowance the word *close* from the phrase "Use only under close adult supervision."

40. No significant adverse environmental consequences will result from the regulation.

41. Many manufacturers were, at the time of the hearings herein, producing fireworks

⁴⁷ Under section 4, FHSA, the sale or distribution of improperly labeled or banned fireworks would be a criminal violation. Criminal violations of the FHSA are not dependent on intent to violate the law. See U.S. v. Chalaire, 316 F. Supp. 543 (E. D. La. 1970).

⁴⁸ As indicated at note 15, *supra.*, the statements included in Parts D-H herein are to be considered as supplementary findings of fact. The findings listed herein are ultimate findings based on the supplementary findings.

PROPOSED RULES

in compliance with provisions of the proposed regulation.

42. Provision for an effective date 180 days from the date of publication of the final order is necessary and reasonable.

43. Insufficient evidence was presented to extend the effective date of the regulation beyond 180 days after the final order is issued.

J. CONCLUSIONS OF LAW

1. Firecrackers and other fireworks devices are flammable or combustible and/or generate pressure through decomposition, heat or other means.

2. Firecrackers and other fireworks devices may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use.

3. Firecrackers and fireworks devices are "hazardous substances" pursuant to the provisions of section 2(f)(1) of the FHSA.

4. Firecrackers containing pyrotechnic composition in excess of 50 milligrams (.772 grains) when intended, or packaged in a form suitable for use in the household present a hazard of such a degree and nature that notwithstanding any cautionary labeling the public health and safety can only be assured by prohibiting the devices from the channels of interstate commerce.

5. Firecrackers containing pyrotechnic composition of 50 milligrams (.772 grains) or less when intended, or packaged in a form suitable for use in the household can be adequately labeled to protect the public health and safety and do not present a hazard of a nature and degree which would require that they be banned from the channels of interstate commerce.

6. Fireworks devices other than firecrackers (as specified in § 1500.17(a)(9) of the order herein) falling to meet the safety requirements specified in section 1507 of this order, when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree and nature that notwithstanding any cautionary labeling the public health and safety can be assured only by prohibiting such articles from the channels of interstate commerce.

7. The labeling requirements (as specified in § 1500.19(b) of the order herein) are reasonable and are necessary in the interests of the public health and safety.

8. The provisions of section 1507 of the order herein are reasonable and are sufficiently clear, and precise to be understood and enforced.

9. The Consumer Product Safety Commission has no jurisdiction to issue regulations for firecrackers and fireworks devices under the Federal Hazardous Substances Act, without first providing public notice in accordance with the applicable statutory and regulatory requirements.

10. The public health and safety requires that the regulations become effective at the earliest reasonable date.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(q)(1)(B), (2), 3(b), 74 Stat. 374-375 as amended 80 Stat. 1304-1305; (15 U.S.C. 1261, 1262)), the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; (21 U.S.C. 371(e))), and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; (15 U.S.C. 2079(a))), Subchapter C of Title 16, Chapter II, is tentatively amended as follows:

1. Section 1500.14 is tentatively amended by adding a new paragraph (b) (7) as follows (although unchanged, the

introductory text of § 1500.14(b) is included below for context):

§ 1500.14 Products requiring special labeling under section 3(b) of the act.

(b) The Commission finds that the following substances present special hazards and that, for these substances, the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act, the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

(7) *Fireworks devices.* Because of the special hazards presented by fireworks devices if not used in a certain manner, the following listed fireworks devices shall be labeled as indicated:

(i) *Fountains.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE).

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Place on level surface.

Light fuse and get away.

(ii) *California candles.*

WARNING (OR CAUTION) EMITS SHOWERS OF SPARKS

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Hold in hand at bottom of tube.

Point away from body so that neither end points toward body.

(iii) *Spike and handle cylindrical fountains.*(A) *Spike fountains.*

WARNING (OR CAUTION) EMITS SHOWERS OF SPARKS

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Stick firmly in ground in an upright position. Do not hold in hand.

Light fuse and get away.

(B) *Handle fountains.*

WARNING (OR CAUTION)
EMITS SHOWERS OF SPARKS

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Hold in hand—point away from body. Light fuse.

(iv) *Roman Candles.*

WARNING (OR CAUTION)
SHOOTS FLAMING BALLS

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Stick butt end in ground.

Do not hold in hand.

Light fuse and get away.

(v) *Rockets with sticks.*

WARNING (OR CAUTION)
FLAMMABLE

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Place in wooden trough or iron pipe at 75° angle, pointing away from people or flammable material.

Do not hold in hand.
Light fuse and get away.

(vi) *Wheels.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Attach securely by means of a nail through the hole (or place on hard flat surface, for ground spinners).

Light fuse and get away.

(vii) *Illuminating torches.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Hold in hand—point away from body, clothing, or other flammable material (or place upright on level ground. Do not hold in hand, if more descriptive).

Light fuse (or light fuse and get away, if more descriptive).

(viii) *Sparklers.*

On the front and back panels:

WARNING (OR CAUTION)

FLAMMABLE

On the side, front, back, top, or bottom panel.

CAUTION

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Do not touch glowing wire (or do not touch hot plastic, wood, etc., if more descriptive). Hold in hand with arm extended away from body.

Keep burning end or sparks away from wearing apparel or other flammable material.

(ix) *Mines and shells.*

WARNING (OR CAUTION)

EMITS SHOWERS OF SPARKS (OR SHOOTS FLAMING BALLS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Place on hard smooth surface (or place upright on level ground, if more descriptive).

Do not hold in hand.

Light fuse and get away.

(x) *Whistles without report.*

WARNING (OR CAUTION)

FLAMMABLE

SHOOTS WHISTLE IN AIR (if applicable) Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Do not hold in hand.

Light fuse and get away.

(xi) *Toy smoke devices and flitter devices.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Do not hold in hand.

Light fuse and get away.

(xii) *Helicopter-type rockets.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision. (Use of the word close is optional.)

For outdoor use only.

Place on hard, open surface

Light fuse and get away.

(xiii) *Party poppers.*

WARNING (OR CAUTION)

FLAMMABLE

Use only under [close] adult supervision.
(Use of the word close is optional.)
Do not point either end toward face or other person.

Hold in hand—jerk string.

(xiv) *Missile-type rockets.*

WARNING (OR CAUTION)

FLAMMABLE (OR EMITS SHOWERS OF SPARKS, IF MORE DESCRIPTIVE)

Use only under [close] adult supervision.
(Use of the word close is optional.)
For outdoor use only.
Place on hard, open surface.
Light fuse and get away.

(xv) *Labeling—General.* Any fireworks device not required to have a specific label as indicated above shall carry a warning label indicating to the user where and how the item is to be used and necessary safety precautions to be observed. All labels required under this section shall comply with the requirements of § 1500.121 of these regulations.

2. Section 1500.17 is tentatively amended by adding paragraphs (a) (8) and (9) as follows (although unchanged, the introductory text of § 1500.17(a) is included below for context):

§ 1500.17 Banned hazardous substances.

(a) Under the authority of section 2(q) (1) (B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(8) Firecrackers designed to produce audible effects, if the audible effect is produced by a charge of more than 50 milligrams (.772 grains) of pyrotechnic composition (not including firecrackers included as components of a rocket), aerial bombs, and devices that may be confused with candy or other foods, such as "dragon eggs," and "cracker balls" (also known as "ball-type caps"), and including kits and components intended to produce such fireworks except such devices which meet all of the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of Interior (or by equivalent State or local governmental agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate.

(9) All fireworks devices, other than firecrackers, including kits and components intended to produce such fireworks, not otherwise banned under the act, that do not comply with the applicable requirements of Part 1507 of this

chapter, except fireworks devices which meet all the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate.

§ 1500.85 [Amended]

3. Section 1500.85, *Exemption from classification as banned hazardous substances*, is tentatively amended by revoking paragraph (a) (2) and substituting therefore:

(a) * * *

(2) Firecrackers designed to produce audible effects, if the audible effect is produced by a charge of not more than 50 milligrams (.772 grains) of pyrotechnic composition.

4. Part 1507 is tentatively added as follows:

Sec.

- 1507.1 Scope.
- 1507.2 Prohibited chemicals.
- 1507.3 Fuses.
- 1507.4 Bases.
- 1507.5 Pyrotechnic leakage.
- 1507.6 Burnout and blowout.
- 1507.7 Handles and spikes.
- 1507.8 Wheel devices.
- 1507.9 Toy smoke devices and flitter devices.
- 1507.10 Rockets with sticks.
- 1507.11 Party Poppers.

AUTHORITY: (Sec. 2(q) (1) (B), (2), 74 Stat. 374 as amended 80 Stat. 1304-1305; (15 U.S.C. 1261); sec. 701(e), 52 Stat. 1055 as amended; (21 U.S.C. 371(e)); sec. 30(a), 86 Stat. 1231; (15 U.S.C. 2079(a))).

§ 1507.1 Scope.

This Part 1507 prescribes requirements for those fireworks devices (other than firecrackers) not otherwise banned under the act. Any fireworks device (other than firecrackers) which fails to conform to applicable requirements is a banned hazardous substance and is prohibited from the channels of interstate commerce. Any fireworks device not otherwise banned under the act shall not be a banned hazardous substance by virtue of the fact that there are no applicable requirements prescribed herein.

§ 1507.2 Prohibited chemicals.

Fireworks devices shall not contain any of the following chemicals:

- (a) Arsenic sulfide, arsenates, or arsenites.
- (b) Boron.
- (c) Chlorates, except:
 - (1) In colored smoke mixtures in which an equal or greater amount of sodium bicarbonate is included.
 - (2) In caps and party poppers.
 - (3) In those small items (such as ground spinners) wherein the total powder content does not exceed 4 grams of which not greater than 15 percent (or

600 milligrams) is potassium, sodium, or barium chlorate.

(d) Gallates or gallic acid.

(e) Magnesium (magnesium/aluminum alloys, called magnalium, are permitted).

(f) Mercury salts.

(g) Phosphorus (red or white). Except that red phosphorus is permissible in caps and party poppers.

(h) Picrates or picric acid.

(i) Thiocyanates.

(j) Titanium, except in particle size greater than 100-mesh.

(k) Zirconium.

§ 1507.3 Fuses.

(a) Fireworks devices that require a fuse shall:

(1) Utilize only a fuse that has been treated or coated in such manner as to reduce the possibility of side ignition. Devices such as ground spinners that require a restricted orifice for proper thrust and contain less than 6 grams of pyrotechnic composition are exempted from § 1507.3(a) (1).

(2) Utilize only a fuse which will burn at least 3 seconds but not more than 6 seconds before ignition of the device.

(b) The fuse shall be securely attached so that it will support either the weight of the fireworks device plus 8 ounces of dead weight or double the weight of the device, whether is less, without separation from the fireworks device.

§ 1507.4 Bases.

The base or bottom of fireworks devices that are operated in a standing upright position shall have the minimum horizontal dimension or the diameter of the base equal to at least one-third of the height of the device including any base or cap affixed thereto.

§ 1507.5 Pyrotechnic leakage.

The pyrotechnic chamber in fireworks devices shall be sealed in a manner that prevents leakage of the pyrotechnic composition during shipping, handling, and normal operation.

§ 1507.6 Burnout and blowout.

The pyrotechnic chamber in fireworks devices shall be constructed in a manner to allow functioning in a normal manner without burnout or blowout.

§ 1507.7 Handles and spikes.

(a) Fireworks devices which are intended to be hand-held and are so labeled shall incorporate a handle at least 4 inches in length (see § 1500.14(b) (7)). Handles shall remain firmly attached during transportation, handling and full operation of the device, or shall consist of an integral section of the device at least four inches below the pyrotechnic chamber.

(b) Spikes provided with fireworks devices shall protrude at least 2 inches from the base of the device and shall have a blunt tip not less than 1/8-inch in diameter or 1/8-inch square.

§ 1507.8 Wheel devices.

Drivers in fireworks devices commonly known as "wheels" shall be securely at-

tached to the device so that they will not come loose in transportation, handling, and normal operation. Wheel devices intended to operate in a fixed location shall be designed in such a manner that the axle remains attached to the device during normal operation.

§ 1507.9 Toy smoke devices and flitter devices.

(a) Toy smoke devices shall be so constructed that they will neither burst nor produce external flame (excluding the fuse and firstfire upon ignition) during normal operation.

(b) Toy smoke devices and flitter devices shall not be of such color and configuration so as to be confused with banned fireworks such as M-80 salutes, silver salutes, or cherry bombs.

(c) Toy smoke devices shall not incorporate plastic as an exterior material in the pyrotechnic composition comes in direct contact with the plastic.

§ 1507.10 Rockets with sticks.

Rockets with sticks (including sky-rockets and bottle rockets) shall utilize a straight and rigid stick to provide a directed and stable flight. Such sticks shall remain straight and rigid and attached to the driver so as to prevent the stick from being damaged or detached during transportation, handling, and normal operation.

§ 1507.11 Party poppers.

Party poppers (also known by other names such as "Champagne Party Poppers," and "Party Surprise Poppers,") shall not contain more than 0.25 grains of pyrotechnic composition. Such devices may contain soft paper or cloth inserts provided any such inserts do not ignite during normal operation.

Any party of record (other than staff counsel) may at any time on or before April 5, 1976, file with the Secretary, Consumer Product Safety Commission, 1750

K Street, NW, Washington, D.C. 20207, written exceptions to the foregoing tentative order, preferably in five copies. Exceptions shall point out with particularity the alleged errors in said order and shall contain a specific reference to the pages of the transcript of the testimony or exhibits on which exceptions are based. Exceptions may be accompanied by a memorandum or brief in support thereof. Received exceptions may be seen in the above office during working hours, Monday through Friday.

(Secs. 2(q) (1) (B), (2), (3) (b), 74 Stat. 374-375 as amended, 80 Stat. 1304-1305; (15 U.S.C. 1261, 1262); sec. 701(e), 52 Stat. 1055 as amended (21 U.S.C. 371(e)); sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)).

Dated: March 4, 1976.

SADYE E. DUNN,
Secretary, Consumer Product
Safety Commission.

[FR Doc.76-6207 Filed 3-3-76;8:45 am]

federal register

THURSDAY, MARCH 4, 1976



PART III:

COMMODITY FUTURES TRADING COMMISSION



CONTRACT MARKET RULES

Request for Comments

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

CONTRACT MARKET RULES; SUBMISSION OF RULES TO COMMISSION; EMERGENCY CIRCUMSTANCES; EXEMPTION OF CERTAIN OPERATIONAL AND ADMINISTRATIVE RULES

Request for Comments

On July 10, 1975, the Commodity Futures Trading Commission ("Commission") revised § 1.41 of the regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1-22.17 CFR 1.41 and 1.40 FR 29085. As revised, regulation 1.41 implemented certain provisions of section 5a(12) of the Act, 7 U.S.C. 7a(12). For example, regulation 1.41 defines the "emergencies" in which section 5a(12) of the Act permits a contract market to place certain temporary rules into effect without prior Commission approval.

The July 10 revision was interim in nature; in announcing the revision, the Commission also requested comments thereon. The Commission has considered the comments received and hereby proposes further revisions to regulation 1.41. The Commission invites interested persons to comment on the proposed revisions.

SUMMARY OF REGULATION 1.41 AND THE NEWLY-PROPOSED REVISION

Section 5a(12) of the Act, which was added to the Act by section 210 of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 210, 88 Stat. 1389, 1401 (October 23, 1974), requires contract markets to

submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin.

Section 5a(12) exempts from this prior-approval requirement any "temporary rule" dealing with an "emergency," as defined by the Commission.¹

Regulation 1.41 generally provides—as does section 5a(12)—that contract markets must submit to the Commission copies of any proposed "rule" at least 30 days before its planned effective date and

¹ In this connection, section 5a(12) provides as follows:

The Commission shall specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.

that a rule may not become effective unless approved by the Commission. The regulation further provides that, in an emergency, a contract market rule dealing with trading requirements need not be so filed and may be placed into immediate effect as a "temporary rule" without prior Commission approval by a two-thirds vote of the contract market's "governing board." Regulation 1.41 currently defines an emergency as:

any threatened or actual market manipulation or corner, any act of the United States or a foreign government affecting a commodity, or any other major market disturbance, any of which prevents the market from accurately reflecting the forces of supply and demand for the commodity affected.²

Although the proposed revision of regulation 1.41 would not materially change the current operative portions of the regulation, it would significantly alter other portions of the regulation, principally by redefining certain terms and by adding new definitions. Specifically, the revision would: (1) Redefine "rule of a contract market" broadly to include any of the actions subject to prior Commission approval under section 5a(12) of the Act; (2) redefine the term "emergency" by setting forth a list of representative "emergency" situations; (3) define "governing board of a contract market" to include the board of directors, board of governors, and any duly authorized committee; (4) limit the duration of a "temporary emergency rule" to the period of the emergency, but not to exceed 30 days unless the Commission approves the rule pursuant to section 5a(12) of the Act; and (5) exempt certain types of operational and administrative rules from the prior-approval requirement of section 5a(12) of the Act. The revision would also require contract markets, in submitting copies of proposed rules to the Commission for its approval pursuant to section 5a(12) of the Act, to furnish an explanation of the rule, including its purpose, and any other information that might aid the Commission in its analysis of the rule.

DESCRIPTION OF THE PROPOSED REVISION

1. *Definition of "rule of a contract market."* Paragraph (a) of the proposed regulation sets forth a revised definition of the term "rule of a contract market" which, in general, follows the language of section 5a(12) of the Act. This is in response to comments from contract markets that the present definition is unclear. The Commission emphasizes

² This language is substantially that of section 8a(9) of the Act, which authorizes the Commission in an "emergency" to direct a contract market to take such action as the Commission deems necessary to maintain or restore orderly trading in or the liquidation of any futures contract. In adopting this interim definition of the term "emergency" in regulation 1.41, the Commission stated that it was using the language of section 8a(9) because the Commission had not had an opportunity at that time to examine as fully as it believed necessary the ramifications of a definition of the term "emergency" in the context of section 5a(12) of the Act. 40 FR 29085.

that the proposed definition is purposefully broad so as to be consistent with the Commission's authority in this area.

One exchange suggested that the rules of clearing organizations are not subject to the prior-approval requirement of section 5a(12). The Commission believes otherwise. In its view, for purposes of contract market rule review under section 5a(12), a clearing organization should be considered part of any contract market for which it clears trades. The clearance of trades is as vital a function of a futures market as is the actual execution of trades on the contract market floor. In many cases, a clearing organization's rules relate as closely to contract market trading requirements as do the contract market rules setting out the terms and conditions of the contracts of sale. Indeed, the bylaws or rules of many clearing organizations and exchanges provide that the bylaws and rules of the organization shall be considered a part of the terms and conditions of every contract of sale cleared through the organization. Therefore, under the proposed revision, the term "contract market" is defined to include the clearing organization of the contract market.³ Nevertheless, the Commission would appreciate comment on the applicability of section 5a(12) to the rules of clearing organizations.

2. *Definition of "emergency."* Regulation 1.41 presently defines the term "emergency" by primarily utilizing statutory language contained in section 8a(9) of the Act. Several exchanges criticized that approach, contending that the emergency provisions of section 8a(9) are narrower than those contained in section 5a(12). The Commission views its emergency powers as broad and, therefore, does not agree with that contention; nonetheless, the Commission does believe that the definition of "emergency" in regulation 1.41 should be clarified. The proposal essentially follows the approach suggested by one exchange that the definition set forth types of situations that would constitute "emergencies" within the meaning of regulation 1.41. The emergency circumstances listed in the proposal include:

(1) Circumstances specifically defined in contract market rules as "emergencies" (these rules would of course have to be submitted to the Commission for its prior approval under section 5a(12)); and

(2) Circumstances which immediately and substantially threaten, or may threaten, the fair and orderly trading in, or the liquidation of or delivery pursuant to, any contract on a contract market, including:

(a) Manipulative activities or attempted manipulative activities, actual

³ One exchange suggested that several other areas of contract market rules may not be subject to section 5a(12), as, for example, arbitration rules adopted by contract markets pursuant to section 5a(11) of the Act. The Commission has already expressed the view that such arbitration rules are subject to section 5a(12). 40 FR 54430 (November 24, 1975).

or attempted corners or squeezes, or any price distortion in contracts traded on the contract market; or

(b) Actions by any governmental body that will have a direct impact on trading on a contract market; or

(c) Circumstances having a substantial adverse effect upon the physical functions of a contract market, including, for example, fire or other casualty, bomb threats, inclement weather, power failures, and communications and transportation breakdowns;⁴ or

(d) The bankruptcy, insolvency, default or unsound financial condition of any member firm of a contract market which may affect the ability of that member to perform on its contracts or which may endanger the safety of funds of customers, creditors of the contract market, members of the contract market, or the clearing organization of the contract market; or

(4) Other unusual, unforeseeable and adverse circumstances in which immediate action is necessary but in which there may not be an adequate opportunity for contract markets to seek prior Commission approval of a rule.

3. *Definition of "governing board."* Regulation 1.41 presently does not define the term "governing board" (which, under regulation 1.41 and section 5a(12) of the Act, is the body that must approve "temporary emergency rules"). Several exchanges urged the Commission to define this term and to have the definition include a committee or officer of the exchange authorized to take emergency action. The Commission's proposal defines "governing board" to include a committee—but not an officer—of a contract market duly authorized by contract market rules to adopt a temporary rule in an "emergency" under regulation 1.41. (A contract market rule delegating such authority to a committee would of course have to be approved by the Commission under section 5a(12) before the rule could become effective.) The Commission believes that such a definition is necessary and appropriate to ensure that contract markets have sufficient flexibility to meet urgent emergency situations that require prompt action. If the term "governing board" is narrowly defined to include only the entire board of directors (or governors) of a contract market, such flexibility may be lacking and an emergency might then have serious adverse impacts on the contract

market and the users of the contract market before the board could meet.⁵

4. *Definition of "two-thirds vote."* One exchange urged the Commission to interpret broadly the requirement of section 5a(12) that emergency rules be adopted by "a two-thirds vote of [the contract market's] governing board." It was suggested that a two-thirds vote of the members of the governing board present at the time of the vote should be sufficient for such action. The proposal contains such a provision subject only to a minimal quorum requirement. However, the Commission requests comment on whether this flexibility is necessary in light of the Commission's proposed definition of "governing board." The Commission also requests comment on whether the quorum requirements contained in state laws, as well as those contained in the proposal itself, permit sufficient flexibility in "emergency" circumstances.

5. *Definition of "temporary emergency rule."* The proposal defines the term "temporary emergency rule" to include any temporary rule of a contract market that is adopted by a two-thirds vote of its governing board to meet an "emergency." One exchange suggested that the Commission define a temporary emergency rule as a rule that lasts for the duration of an emergency. The proposal restricts the duration of a temporary emergency rule to the duration of the emergency, not to last more than 30 days without express Commission approval, and in no case to extend beyond 90 days from the date the temporary rule is first put into effect.

Naturally, modifications of a temporary emergency rule would also be subject to the provisions of regulation 1.41. Furthermore, any such modification could not operate to extend the limitation contained in the Commission's proposed revision of regulation 1.41 on the duration of the temporary rule being modified.

6. *Physical emergencies.* In proposing this definition of a "temporary emergency rule," the Commission does not intend to preclude contract markets from adopting more permanent forms of rules that set forth specific action that may be taken in specific circumstances. For example, the proposed regulation specifically permits a designated contract market official, authorized by a contract market rule previously approved by the Commission pursuant to section 5a(12) of the Act, to suspend trading on the contract market where the physical functions of the contract market have been severely and adversely affected by a "physical emergency," such as a bomb scare or a power failure. (Paragraph (c) of the proposed rule would also permit such a designated official to order resto-

ration of trading after the emergency has abated, if so authorized by the contract market rule.) Action under such a rule would not be subject to the requirements of regulation 1.41 applicable to a temporary emergency rule. However, any such rule would have to be approved by the Commission pursuant to section 5a(12) of the Act prior to its implementation.

7. *Emergency actions.* The Commission's proposal also sets forth the types of actions a contract market may take pursuant to a temporary emergency rule, including suspension or modification of other contract market rules, limitations on trading (such as trading for liquidation only), and liquidation of all open contracts.

8. *New notification requirements with respect to submissions pursuant to sections 5a(1) and 5a(12).* The proposal requires each submission pursuant to section 5a(12) of the Act to be accompanied by an explanation designed to aid the Commission in its evaluation of the proposed contract market rule. The explanation furnished by the contract market must cover such areas as the mechanics, implementation date, anticipated effect, purpose and background of the proposed rule or rule change.

The proposal also contains, in slightly restated form, the requirements of current regulation 1.41 that exchanges promptly notify the Commission of changes in membership and promptly furnish the Commission with copies of all newly adopted rules and changes in existing rules not subject to Commission approval under section 5a(12) of the Act.

9. *Rules not subject to Commission review—Operational and administrative rules.* Although the Commission has had only a relatively brief experience in reviewing market rules submitted pursuant to section 5a(12), it has received many proposed rules that do not appear to necessitate Commission review since they are operational or administrative in nature. In addition, the Commission has received many changes to substantive rules which are operational or administrative in nature and likewise do not necessitate Commission review. (For example, certain contract markets have changed all references in their rules to the "Secretary of Agriculture" to references to the "Commission.") Section 5a(12) authorizes the Commission to adopt a regulation exempting "enumerated types of contract market operational and administrative rules" from the prior-approval requirement of the section. Regulation 1.41, as proposed, enumerates, by way of example, certain types of operational and administrative rules which would be exempt from section 5a(12)'s prior-approval requirement under the regulation, such as rules relating to hours of trading; however, it is the intent of the Commission that the exemptive provisions of regulation 1.41 be broadly interpreted to exempt all operational and administrative rules which

⁴It has been suggested that "physical emergencies" which severely and adversely affect the physical functions of a contract market be treated as operational exemptions. While the regulation would exempt certain operational and administrative rules from the prior-approval requirement of section 5a(12) of the Act, the exemption does not extend to physical emergencies. As noted below, however, contract markets are not precluded from adopting permanent rules, subject to prior-approval by the Commission, which authorize a designated official of a contract market to suspend trading in the event of a physical emergency which so affects the physical functions of the contract market.

⁵The Commission recognizes that state corporation laws authorize informal actions by boards of directors of corporations and that such provisions provide some flexibility in this area. However, the Commission is concerned that even those provisions may not be sufficient where immediate action is necessary.

⁶See also note 4 supra.

are similar in nature to those set out in the proposed regulation.⁷ The Commission is particularly interested in comments on the types of rules which should be characterized as operational or administrative for purposes of this exemption.

A decision as to whether a rule is operational or administrative would be made in the first instance by the contract market. Should the contract market determine that a proposed rule or rule change is operational or administrative in nature, it would not be required to submit that rule to the Commission pursuant to section 5a(12). Rather, pursuant to section 5a(1) of the Act, the contract market would be required to "promptly furnish the Commission copies" of the rule.

Under the proposed regulation, exempted rules could become effective 10 days after receipt by the Commission unless the contract market is notified otherwise. In certain instances the Commission might require more than 10 days to determine whether a rule or rule change was in fact operational or administrative, and the contract market would be notified if more time was required. In that instance the rule would not become effective until further notification by the Commission.⁸

CASH MARKET RULES

One exchange asked the Commission to exempt from the prior-approval requirement of section 5a(12) of the Act those contract market rules governing cash transactions. The Commission's proposed revision of regulation 1.41 does not contain such an exemption, but the Commission requests comment on (1) the need for section 5a(12) review of such rules, (2) how such rules might be legally exempted, and (3) how these rules interrelate with contract market rules governing futures transactions.

The Commission's Advisory Committee on Market Regulation is presently considering the scope of section 5a(12) of the Act, including its applicability to cash market rules of designated contract

markets. In addition, the Cash Market Subcommittee of the Commission's Advisory Committee on Definition and Regulation of Market Instruments is considering the Commission's authority over the cash markets. After the Commission has considered the reports and recommendations of those Advisory Committees, it will make a determination with respect to the scope of section 5a(12). In the interim, the Commission's Division of Trading and Markets, in a letter to one designated contract market, took a "no action" position with respect to cash market rules; this position is applicable to all contract markets. The Division's letter stated:

Because of the uncertainty of this issue, the Division has determined that it will not recommend to the Commission at this time that it review for approval or disapproval, pursuant to section 5a(12) of the Act, those contract market rules relating exclusively to the cash market. Nor will the Division recommend that the Commission institute enforcement action against a contract market for failure to submit such cash market rules for Commission approval, should it later be determined by the Commission that cash market rules are within the scope of section 5a(12) of the Act. Nevertheless, contract market rules relating to cash transactions must be submitted to the Commission pursuant to section 5a(1) of the Act.⁹

AUTHORITY

The following regulation is proposed under the authority of sections 5a and 8a of the Commodity Exchange Act, as amended (7 U.S.C. 7a and 12a).

In considering of the foregoing, the Commission hereby proposes to revise § 1.41 of 17 CFR Chapter I as follows:

§ 1.41 Contract market rules; Submission of rules to Commission; emergency circumstances; exemption of certain operational and administrative rules.

(a) For purposes of this section:

(1) The terms "rule of a contract market" and "contract market rule" mean any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, instrument or stated policy, in whatever form adopted, and any amendment thereto, made or issued by a contract market, or by the governing board thereof or any committee thereof which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or to other trading requirements except those relating to the setting of levels of margin. For purposes of this section, the term "contract market" includes a clearing organization that clears trades for the contract market.

(2) The term "emergency" means:

(i) Any occurrence or circumstance specifically defined as an "emergency" by the rules of a contract market which have been previously approved by the

Commission pursuant to section 5a(12) of the Act; and

(ii) Any other occurrence or circumstance which, in the opinion of such governing board, immediately and substantially threatens or may threaten the fair and orderly trading in, or the liquidation of or delivery pursuant to, any contract for the future delivery of a commodity on such contract market, including the following:

(A) Any manipulative activity or attempted manipulative activity;

(B) Any actual or attempted corner, squeeze or undue concentration of positions;

(C) Any circumstance which may severely affect the performance of contracts traded on the contract market;

(D) Any action taken by the United States or any foreign government or any state or local governmental body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which will have a direct impact on trading on the contract market;

(E) Any circumstance having a severe, adverse effect upon the physical functions of a contract market including, for example, fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, and transportation breakdowns;

(F) The bankruptcy or insolvency of any member or member firm of the contract market or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a member of the contract market which may affect the ability of that member to perform on its contracts;

(G) The suspension or imposition of trading restrictions on a member or other person where it appears that such person has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of customers' funds, members of the contract market, or the clearing organization of the contract market; or

(H) Any other unusual, unforeseeable and adverse circumstance, with respect to which it is impracticable for the contract market to submit, in a timely fashion, a rule to the Commission for prior approval.

(3) The term "governing board" of a contract market includes the board of directors, the board of governors or the board of managers of the contract market and any committee duly authorized to take action for and on behalf of the contract market with respect to an emergency pursuant to a rule of the contract market that has been approved by the Commission pursuant to section 5a(12) of the Act.

(4) The term "two-thirds vote" of a governing board of a contract market means the affirmative vote of not less than two-thirds of the members of such governing board present and voting at a meeting of such governing board at which a quorum of at least one-third of

⁷ Certain types of operational and administrative rules which would be exempted from the prior-approval requirement of section 5a(12) by regulation 1.41 may also constitute actions which may be taken by the governing board of a contract market acting in response to an emergency (e.g., rules relating to hours of trading). However, due to the fact that the Commission must be notified at least 10 days prior to the effective date of an operational or administrative rule exempted from section 5a(12) by regulation 1.41, the Commission has extended its definition of a temporary emergency rule to include such operational and administrative rules.

⁸ Rules which are determined by a contract market to be merely operational or administrative should be submitted separately from section 5a(12) submissions with an explanation that they are being submitted pursuant to section 5a(1) of the Act because they are operational or administrative. The Commission, of course, retains authority to disapprove, pursuant to section 5a(12), even an operational or administrative rule exempted from the prior-approval requirement of section 5a(12) by regulation 1.41.

⁹ See letter from Thomas A. Russo, Director, Division of Trading and Markets, to Walter M. Vernon III, Executive Vice President and Secretary, Board of Trade of Kansas City, Missouri, Inc., February 13, 1976, on file with the Commission in Washington, D.C.

the members of such governing board is in attendance.

(5) The term "temporary emergency rule" means a rule adopted by a "two-thirds vote" of the governing board of a contract market to meet an emergency.

(b) In the event of an emergency, a contract market, by a two-thirds vote of its governing board, may place into immediate effect a temporary rule to deal with the emergency without prior Commission approval. The temporary emergency rule, including any modification thereof, may last for the duration of the emergency, as determined by the contract market, but in no event shall the temporary rule, or any modifications thereof, continue, without express Commission authorization, beyond 30 days after the temporary rule is first put into effect. In no event shall the temporary emergency rule, or any modification thereof, remain in effect for more than 90 days after the temporary rule is first put into effect. The contract market shall notify the Commission of the adoption, modification and termination of a temporary emergency rule by the fastest available means of communication. The contract market shall also submit in writing a copy of all temporary emergency rules, and modifications and terminations thereof, and a complete explanation of the emergency and the action taken to meet the emergency. These submissions shall be made to the Commission at its Washington, D.C., headquarters, and two copies shall be transmitted to the regional office of the Commission having local jurisdiction over the contract market. The temporary emergency rule may authorize the contract market or any governing board or committee thereof to undertake actions necessary or appropriate to meet an emergency, including, but not limited to, such actions as:

- (1) Modifying or suspending any provision of the rules of the contract market;
- (2) Limiting trading to liquidation only, in whole or in part;
- (3) Extending or shortening the expiration date for trading in contracts;
- (4) Extending the time of delivery;
- (5) Changing delivery points;

(6) Ordering the liquidation of contracts or the fixing of a settlement price or the reduction in positions;

(7) Ordering the transfer of contracts held by a member of the contract market to another member, or members, of the contract market;

(8) Extending or limiting hours of trading; and

(9) Suspending trading.

(c) In the event the physical functions of a contract market are severely and adversely affected by a "physical emergency," such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, or transportation breakdowns, a contract market official, duly authorized to take such action for and on behalf of the contract market with respect to such a "physical emergency" pursuant to a rule of the contract market that has been approved by the Commission pursuant to section 5a(12) of the Act, may suspend trading on the contract market, but in no event shall suspension of trading by such a designated official continue in effect for more than 5 days. If so authorized by the contract market rule, such designated contract market official may also order restoration of trading on the contract market, in the absence of action by the governing board of the contract market, upon a determination by him that the "physical emergency" has sufficiently abated to permit the physical functions of the contract market to continue in an orderly manner.

(d) Three copies of any proposed rule of a contract market required to be submitted to the Commission for approval pursuant to section 5a(12) of the Act shall be furnished to the Commission at its Washington, D.C., headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. The contract market submission shall be accompanied by an explanation of the proposed rule (including its anticipated effective date), the action taken or anticipated to be taken by the contract market with respect to adoption of the proposed rule, the purpose and background of the proposed rule and any other information which may be beneficial to the Commission in analyzing the proposed rule. Each contract market shall promptly notify the Commission of any changes in its membership, and shall promptly furnish the Commission

with two copies of any rule it proposes to place into effect without prior Commission approval pursuant to section 5a(12) of the Act, including margin rules. The contract market shall send one copy of such notification or rule to the Commission's Washington, D.C., headquarters and one copy to the regional office of the Commission having local jurisdiction over the contract market.

(e) A contract market is not required to submit to the Commission for approval pursuant to section 5a(12) of the Act contract market rules and rule changes which are operational or administrative in nature and pertain to such matters as:

- (1) Hours of trading,
- (2) Correction of typographical or other mechanical errors in rules,
- (3) Declaration of holidays, and
- (4) Changes in references to the Secretary of Agriculture to references to the Commission or the Department of Justice necessitated by the Commodity Futures Trading Commission Act of 1974.

Such contract market rules shall be submitted by the contract market to the Commission pursuant to section 5a(1) of the Act, and shall become effective ten (10) days after their receipt by the Commission, or at such later dates as such rules themselves specify: *Provided, however*, That such rules shall not become effective if the contract market is notified that the Commission has determined that the rules of a contract market so submitted are not operational or administrative in nature or that the Commission will be unable within ten (10) days to determine whether those rules are operational or administrative in nature.

Interested persons are invited to submit written comments on the proposed regulation to the Commodity Futures Trading Commission, 1120 Connecticut Avenue NW., Washington, D.C. 20036, Attention: CCU. Comments received on or before April 30, 1976, will be considered by the Commission before taking action on the proposed regulation. Copies of all comments received will be available for inspection at the Commission's office in Washington, D.C.

Issued in Washington, D.C., on February 27, 1976, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity
Futures Trading Commission.

[FR Doc.76-6235 Filed 3-3-76; 8:45 am]



THIS HANDY REFERENCE IS A "MUST" ON YOUR BOOKSHELF!

1975/1976 EDITION

Whatever happened to the Director of Liquidation? (page 693)

Which agencies have programs concerning American Indians? (page 817)

What is SPARS? (page 762)

The answers to these and many more intriguing questions concerning the Federal Government can be found in the *U.S. Government Manual*.

This official guidebook provides useful information about a wide variety of programs and activities within the three branches of Government, including:

- Agency programs, functions, key officials, and a "Sources of Information" section
- Federal regional government system
- A historical reference to Federal agencies and functions
- Bicentennial activities and programs

This handbook is an excellent reference tool for teachers, students, librarians, businessmen, lawyers, and citizens interested in current information about the U.S. Government.



\$6.50

per copy
Paper bound, with charts

MAIL ORDER FORM To: Superintendent of Documents, Government Printing Office
Washington, D.C. 20402

Enclosed find \$..... (check, money order, or Supt. of Documents coupons). Please send me copies of the UNITED STATES GOVERNMENT MANUAL, 1975/1976, at \$6.50 per copy.

(Catalog No. GS 4.109:975) (Stock No. 022-003-00910-8)

Please charge this order
to my Deposit Account
No.

Name
Street address
City and State ZIP Code

FOR USE OF SUPT. DOCS.

Enclosed.....
To be mailed
later.....
Subscription.....
Refund.....
Coupon refund.....
Postage.....
Foreign handling.....

☆ GPO : 1975-O-58-000